

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



Edited by  
**William H. Mason**  
*Assisted by*  
**The Publisher's Editorial Staff**

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1940

**251-17. Appropriation.**—There is hereby appropriated from any moneys in the state treasury not otherwise appropriated the sum of \$10,000 for each of the fiscal years ending June 30, 1940, and June 30, 1941,

for the purpose of carrying out the provisions of this act. (Act Apr. 22, 1939, c. 442, §7.)

**251-18. Effective date.**—This act shall take effect on July 1, 1939. (Act Apr. 22, 1939, c. 442, §8.)

## CHAPTER 5A

### Salaries of Certain State Officers and Employees

Act limiting amount which may be paid state officer or employee for use of automobile. Laws 1931, c. 331, §§254-47, 254-48.

#### 252. Amount—Payment.

##### 2. Judicial Department.

**Salary of chief justice, associate justices and commissioners.**—The annual salary of the chief justice of the supreme court shall be \$9,000.00 and that of each associate justice and each commissioner of the supreme court \$8,500.00. (G. S. '13, §294; '13, c. 400, §1; Ex. Sess. '19, c. 30; '21, c. 504; '23, c. 377; '25, c. 268; Apr. 24, 1929, c. 322, §1.)

The above provision amends this paragraph with respect to the salaries of the chief justice, associate justices, and the commissioners.

##### 6. Office of Attorney General.

**Salary of attorney general and assistants.**—The annual salary of the attorney general is hereby fixed at \$7,000.00 and of the deputy attorney general at \$6,000.00, and of the several assistant attorneys general, other than the assistant attorney general who is a member of the rural credit bureau, at \$5,000.00. (G. S. '13, §294; '13, c. 400, §1; '21, c. 324; Apr. 25, 1929, c. 382, §1.)

The above provision amends this subdivision "so as to read as" above. As to whether it amends the provisions of the former law which are not embraced in the amendatory act may be open to question.

##### 8. Office of State Librarian.

The salary of the assistant state librarian is hereby fixed at twenty-one hundred dollars annually, payable in semi-monthly installments. (G. S. '13, §294; '13, c. 400, §1; Ex. Sess. '19, cc. 30, 31, §1.)

**Explanatory note.**—Laws Ex. Sess. 1919, c. 31, §1, impliedly amended Laws Ex. Sess. 1919, c. 30, by increasing the salary of the assistant librarian to the amount above stated.

##### 9. Office of Commissioner of Banks.

Commissioner of Banks, forty-five hundred dollars; one deputy commissioner of banks, four thousand dollars; one bank examiner assigned to examination in cities of the first class, thirty-seven hundred fifty

dollars; ten bank examiners thirty thousand dollars; eleven assistant examiners, twenty-seven thousand five hundred dollars; three second assistant examiners fifty-four hundred dollars; three examiners' clerks, forty-five hundred dollars; four examiners' clerks, at an amount not to exceed fifty-six hundred dollars; one chief clerk, twenty-four hundred dollars; one first assistant clerk, fifteen hundred dollars; seven stenographers and clerks, eighty-two hundred eighty dollars; one extra clerk hire for contingencies, one thousand dollars. (As amended '21, c. 499; '23, c. 252; Apr. 13, 1933, c. 232, §1.)

**Commissioner to fix salary of Examiner in charge of Liquidation.**—The Commissioner of Banks shall fix the salary of the Examiner in Charge of Liquidation appointed by him, but not to exceed four thousand dollars, and the same shall be paid out of funds of banks in the hands of the Commissioner of Banks for liquidation. (Act Apr. '13, 1933, c. 252, §2.)

##### 19. Office of Board of Control.

\* \* \*

**Salary increases for certain employees.**—That the salaries of all employees of the various institutions of the state under the jurisdiction of the State Board of Control amounting to \$20 to \$50 a month exclusive of maintenance they may receive, be increased \$5 to \$10 per month, and the said State Board of Control is hereby authorized and directed to increase such salaries in said manner, using their own discretion as to the rate of increase in the individual case. (Act Apr. 15, 1935, c. 183, §1.)

Sec. 3 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage. Sec. 2 of such act is set forth as §10834-1.

##### 22. District Court Judges.

Governor attempted to veto this bill but did not return it in time. See State v. Holm. 172M162, 215NW200.

##### 254. Fees.

Laws 1935, c. 391, §37, reducing salaries 10%, is changed by Act Apr. 24, 1937, c. 457, §37, which reinstates pre-existing salaries.

## CHAPTER 5B

### Public Officers and Employees in General

#### STATE EMPLOYEES' RETIREMENT ASSOCIATION

**254-1. Definitions.**—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

(a). "State Employee" shall mean any person holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid, either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting elective state officers, court commissioners, district judges, the members of the Tax Appeal Board, the Civil Service Board, and the members of any other State Board or Commission who serve the state intermittently and are paid on a per diem basis, and the president, deans, professors, and in-

structors in the state university and in the state teachers' colleges, and teachers in state institutions who are eligible to membership in the Teachers' Retirement Fund but shall not include temporary employees or students who secure employment with the state or a state institution, incidental to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees as temporary, permanent, or otherwise, by the head of any department, or any commission or agency of the state notwithstanding.

Employees of the department of education who are eligible to membership in the Teachers' Retirement Fund shall have the option of electing whether to be a member of the State Employees Retirement Association or the Teachers' Retirement Fund, and any em-

ployee in the department of education who, prior to the passage of this act, is a member of both the Teachers' Retirement Fund, under Laws 1931, Chapter 406 and Chapter 146, and the State Employees Retirement Association shall elect prior to July 1, 1939, as to which association or fund he or she shall remain a member. Teachers in the state institutions who are eligible to membership in the Teachers' Retirement Fund and employees of the department of education who have elected to remain members of the Teachers' Retirement Fund, who are members at the time of the passage of this act shall have the option of taking a deferred annuity if they have sufficient state service, or a refundment. Elective state officers who are members at the time of the passage of this act shall have the option of taking a deferred annuity if they have sufficient state service, or a refundment. The option to take a deferred annuity must be exercised on or before January 1, 1940.

(b). "Head of Department" shall mean the head of any department, institution, or branch of the state service which directly pays salaries out of its income or which prepares, approves and submits salary abstracts of its employees to the state auditor and state treasurer.

(c). "Accumulated Deductions" shall mean the total of the amounts deducted from the salary of a member, and the total amount of assessments paid by a member in lieu of such deductions prior to July 1, 1939, and credited to his or her individual account in the retirement fund, without interest.

(d). "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, prior to July 1, 1939, and all other moneys paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon, including contributions on the part of the state as provided for by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-4, Subdivision 1, being Section 2, Subdivision (a), of this act.

(e). "Monthly Deductions from Salaries" shall mean the actual receipts received or credited to the fund from salary deductions in any calendar month.

(f). "Prior Service" shall mean the service of a member rendered before the first day of July, 1929, and shall include the service during the world war of officers, soldiers, sailors, marines, and army nurses who were "State Employees" at the time of enlisting or being drafted into the military service of the United States, and who returned directly to the service of the state upon returning from the world war.

(g). "Allowable State Service" shall mean the service a member is entitled to have credit for pursuant to Section 4, Subsection (b) and (c), and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 254-9 and 254-10. (Act Apr. 15, 1929, c. 191, §1; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238; Apr. 22, 1939, c. 432, §1.)

The title of the amendatory act (Laws 1933, c. 326) reads: "An act to amend Laws 1929, Chapter 191, Section 1, Subdivision 1; Sections 2, 4, 9, 10, 11 and 12, as amended by Laws 1931, Chapter 351; Laws 1929, Chapter 191, Sections 13 and 14; Laws 1929, Chapter 191, Sections 15 and 16, as amended by Laws 1931, Chapter 351; and Laws 1929, Chapter 191, Section 19, relating to the State Employees' Retirement Fund." The sections of the amendatory act do not correspond to those of the acts amended.

Act Apr. 22, 1935, c. 238, amending Laws 1929, c. 191, as amended, corrects the defect in the title of Laws 1933, c. 326. The title of Act Apr. 22, 1935, c. 238, is as follows: "An act to amend Laws 1929, Chapter 191, Sections 1, 2, 4, 6, 9, 10, 11, to re-number and amend sections 15, 16 and 17 thereof as amended by Laws 1931, chapter 351, sections 1, 2, 4, 6, 9, 10, 11, 15, 16, 17; to repeal Laws 1929, chapter 191, section 12, as amended by Laws 1931, chapter 351, section 12; to repeal Laws 1929, chapter 191, section 13, and Laws 1933, chapter 326; to amend Laws 1929, chapter 191, section 5, and to amend and re-number Laws 1929, chapter 191, sections 14, 18, 19, 20, 21 and 22,

and to add thereto a new section as section 21; relating to state employees' retirement fund."

Act is constitutional. *Hessian v. E.*, 204M287, 283NW 404.

Officers and servants of Minneapolis-St. Paul Sanitary District are not state officers or employees within act creating State Employees' Retirement Association. *State v. King*, 193M405, 258NW583.

District boiler inspector from 1905 to 1919 was a state employee. *Op. Atty. Gen.*, Oct. 16, 1933.

Employees in dormitories at state teachers' colleges are "state employees" though their income is from student meals, banquets, etc. *Op. Atty. Gen.*, Oct. 19, 1933.

State teachers who are reemployed each year may become members of state employees' retirement association. *Op. Atty. Gen.*, Nov. 25, 1933.

Persons paid entirely out of the state emergency relief administration fund are not state employees and are not entitled to remain as members of the state employees' retirement association unless they were in the employ of the state for more than five years, but employees paid partly from state funds and partly from state emergency relief administration fund are entitled to membership, but only to the extent of the amount received from the state. *Op. Atty. Gen.* (331a-8), Dec. 15, 1934.

Minneapolis-St. Paul Sanitary System employees are not state employees. *Op. Atty. Gen.* (331a-7), Mar. 8, 1935.

Special examiners employed in division of insurance are not state employees within meaning of retirement act, unless they are employed continuously for a period of six months or more. *Op. Atty. Gen.* (331a-8), Sept. 7, 1935.

All persons entering employment of state department of education since July 1, 1929, must become members of either the Teachers' Retirement Fund or the State Employees' Retirement Association, and such employees as would come within the terms of both bodies must become members of both. *Op. Atty. Gen.* (175p), Oct. 8, 1935.

Employees engaged in public health service and paid out of federal funds allocated to state are state employees. *Op. Atty. Gen.* (331a-7), May 19, 1936.

County employees using sprayers in weed eradication under contract between state and county were not "state employees". *Op. Atty. Gen.* (322b), Mar. 22, 1938.

National Guard regimental clerks employed on a part time basis and paid from an allowance created under Laws 1921, c. 506, are not state employees. *Op. Atty. Gen.* (331a-6), May 23, 1939.

Superintendent of State School and Colony for Feeble-Minded at Faribault is not eligible for membership in teacher's retirement fund, his supervision of education being merely nominal. *Op. Atty. Gen.* (175p), June 6, 1939.

Teachers in state institutions who are members of Teachers' Retirement Fund, or those eligible to membership in such fund, are required to continue as member of that fund, and must take a refundment from State Employees Retirement Association, or, if they have been a member of retirement association 10 years, take a deferred annuity, but election to take a deferred annuity must be exercised before Jan. 1, 1940, but superintendent of state institution whose duties are chiefly administrative and in a custodial capacity should not be considered teacher for purposes of the act. *Op. Atty. Gen.* (331d), June 6, 1939; May 9, 1939.

Employees of Department of Education who are not members of both Teachers Retirement Fund and State Employees Retirement Association are required to elect prior to July 1, 1939, as to which association or fund he shall remain a member, and if they elect to remain a member of retirement fund, election must be made as to whether they shall take from State Employees Fund a refundment, or, if they have been members of retirement association 10 years, a deferred annuity. *Id.*

Teachers in state institutions who have not elected to be members of Teachers Retirement Fund and therefore not eligible to membership, must continue to be members of State Employees Retirement Association. *Id.*

Employees in Department of Education who are not members of State Employees Retirement Association and not Teachers Retirement Fund and eligible to membership in that fund have option to election to which fund or association they shall be members. *Id.*

Employees in Department of Education who are now members of State Employees Retirement Association and not Teachers Retirement Fund are entitled to elect to take membership in Retirement Fund and obtain a refundment from State Employees Retirement Fund, but it is questionable as to their right to take a deferred annuity. *Id.*

Status of an elective state official who was a former annuitant. *Op. Atty. Gen.* (331a-1), July 11, 1939; note under §254-10.

Vested interest of a government employee in a pension fund. 23MinnLawRev540.

(a). Whether or not a person is entitled to receive credit for services during a period when only employed intermittently should be determined by his status rather than from extent of activity. *Op. Atty. Gen.* (331a-6), Apr. 22, 1936.

Employee of employment service and unemployment compensation division of industrial commission and employees of old age assistance division of board of control are "state employees", and employees of state-wide highway planning survey are state employees after Jan. 1, 1938. Op. Atty. Gen. (331a-6), Mar. 10, 1938.

Members of board of parole are not state employees, and are entitled to a refund of money contributed to fund. Op. Atty. Gen. (331a-6), July 24, 1939.

Vice president of the State Board of Hairdressing and Beauty Culture Examiners is not a "state employee". Op. Atty. Gen. (331a-7), Sept. 1, 1939.

Members of Barber Board are not "state employees", but secretary of board is a "state employee". Op. Atty. Gen. (331a-7), Sept. 16, 1939.

**254-2. State employees' retirement association created.**—There is hereby established a state employees' retirement association the membership of which shall consist only of state employees. Membership in such association shall be optional on the part of persons in the employ of the state on July 1, 1929, but all new state employees entering the service of the state after July 1, 1929, except elective state officers shall become members of said association by acceptance of state employment and the head of the department shall thereupon cause deductions to be made from the salary of such new employes. Persons in the employ of the state on July 1, 1929, who apply for membership in the retirement association prior to January 1, 1930, shall pay a membership fee of One Dollar (\$1.00) and persons in the employ of the state on July 1, 1929, who apply for membership therein after January 1, 1930, shall pay a membership fee of Ten Dollars (\$10.00), but no person in the employ of the state on July 1, 1929, shall be eligible to apply for membership in the retirement association after July 1, 1931. In addition to such membership fee, every person in the employ of the state on July 1, 1929, who becomes a member of the retirement association shall pay in a sum equal to all accrued deductions from his or her salary which would have been made had such employe become a member of the retirement association July 1, 1929, with interest thereon at the rate of four per cent per annum compounded annually. (Act Apr. 15, 1929, c. 191, §2; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §2.)

Teachers who were in employ of state prior to July 1, 1929, and who did not make application for membership in association prior to July 1, 1931, are not now entitled to membership. Op. Atty. Gen., Dec. 20, 1933.

Employees in dormitories of Mankato State Teachers College must become members of retirement association. Op. Atty. Gen., Dec. 28, 1933.

It is necessary that employes make back payments from time of their employment. *Id.*

An employe of state on July 1, 1929, who did not exercise option to become member, could nevertheless become a member after July 1, 1931, where he assumed an elective office in January, 1931. Op. Atty. Gen. (331a-7), Feb. 1, 1937.

An elective state officer can elect to become a member at any time, and membership once voluntarily accepted probably may not be terminated except as specifically provided in act. Op. Atty. Gen. (331a-14), June 17, 1937.

**254-3. Board of managers—officers.**—The management of said state employees' retirement fund is hereby vested in a board of seven members, who shall be known as the State Employees' Retirement Board. Said board shall consist of the state auditor, the state treasurer, the insurance commissioner and four state employes who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. The members of said board so elected shall hold office for a term of four years and until their successors are elected and qualified; provided that at the first election held after the passage of this act one of said members shall be elected for the term of one year, one member for the term of two years, one member for the term of three years, and one member for a term of four years. Any vacancy in said board caused by the death, resignation or removal of either of the members so elected shall be filled by the retirement board for the unexpired portion of the term in which such vacancy occurs. The members of the

retirement board shall serve without compensation, but shall be reimbursed out of the retirement fund expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on such board. The board shall elect a chairman and shall appoint a secretary and such other employes as may be necessary and fix their compensation. The board shall from time to time, subject to the limitations of this act and of the law, establish rules and regulations for the administration of the retirement and other provisions of this act and for the transaction of its business. (Act Apr. 15, 1929, c. 191, §3; Apr. 25, 1931, c. 351, §3; Apr. 22, 1935, c. 238, §3.)

Compensation of secretary and other employes are to be fixed by governing board of retirement association and not the department of administration and finance. Op. Atty. Gen. (331e), Feb. 25, 1935.

There is no provision specifically requiring an annual meeting of association, and is within discretion of board to determine what business shall be transacted at annual meeting and what matters membership shall be allowed to vote on. Op. Atty. Gen. (331a-2), July 19, 1935.

**254-4. Payments into retirement fund.**—(a). Persons in the employ of the state on July 1, 1929, who exercised their option to become members pursuant to Laws 1929, Chapter 191, Section 2 [§254-2], shall pay into the retirement fund, beginning July 1, 1939, according to their age on July 1, 1929, and persons entering the state service and becoming members of the association after July 1, 1929, shall pay into the retirement fund, beginning July 1, 1939, according to their age at the date of becoming members of the association in accordance with the following schedule: those under 30 years of age, three and one-half per cent; those 30 years of age and under 40 years of age, four per cent; those 40 years of age and under 45 years of age, four and one-half per cent; those 45 years of age and under 50 years of age, five per cent; those 50 years of age and under 55 years of age, five and one-half per cent; and those 55 years of age or over, six per cent of the compensation paid them including compensation for overtime, such payments shall be made by deduction thereof from such salary, provided however, that no deductions shall be made from said salaries on any amount thereof in excess of \$300.00 per month, and provided further that until July 1, 1939, the present deduction of 3½ per cent shall remain in effect. The head of each department is hereby required to cause such deduction to be made from the salary of each member of the retirement association on every payroll abstract and to approve one voucher payable to the state treasurer for the aggregate amount so deducted from the salaries covered by said payroll abstract, provided that deductions from salaries of employes paid direct by any department, institution or agency of the state shall be made by the officer or employee authorized by law to pay such salaries, and remitted by him to the secretary of the retirement association with a statement showing the amount of each of such deductions and the names of the employes on whose account the same have been made.

Every department, bureau, division, commission, committee or board which functions regularly as a permanent unit of the state government, and which controls the expenditure of its income or revenue shall pay to the state treasurer, for the uses and purposes of the state employees retirement fund, in the manner and at the times hereinafter specified, the amount of money hereinafter provided for, which said payments shall be credited to said retirement fund by the state treasurer.

Every such unit of the state government which is wholly or substantially financially self-sustaining by reason of income or revenue derived from its own activities shall, beginning with the state's fiscal year ending June 30, 1940, and continuing with each fiscal year thereafter, allocate to said state employees retirement fund an amount equal to one-half of the total amount of superannuation annuities paid during

the fiscal year to employees who were retired by such unit of the state government, and pay the same to the state treasurer within 60 days after the end of each fiscal year.

After the adoption of this act the state auditor shall within 60 days of the end of each fiscal year credit to the retirement fund from the general revenue fund an amount equal to one-half of the superannuation annuities paid during the preceding fiscal year to employees who were retired by all other units of the state government.

Within 30 days of the close of each fiscal year after the adoption of this act the board of directors of the retirement fund shall certify to each unit of the state government which is wholly or substantially self-sustaining the total sum paid in superannuation annuities during the preceding fiscal year to employees who were retired by such unit of the state government, and the said board of directors shall certify to the state auditor the total sum paid during the preceding fiscal year to the retired employees of all other units of the state government. The moneys necessary to provide for the contributions to said retirement fund by the state from the general revenue fund are hereby appropriated out of any funds in the state treasury not otherwise appropriated.

The moneys necessary to provide for contributions to said retirement fund by the various units of the state government which are wholly or substantially financially self-supporting by reason of income or revenue derived from its own activities are hereby appropriated for such purpose out of any funds derived by such units of government as income or revenue from its own activities.

Provided, if an employee has worked in departments other than the one in which he was last employed, that the portion of the annuity herein provided to be paid by the department, shall be paid by the department where he was last employed.

All such salary deductions and the contributions herein provided by the state shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from such fund. Under the direction of the retirement board the head of each department shall furnish such information and shall keep such records as the board may require for the discharge of its duties.

(b). In computing the length of service of members for retirement purposes, who were required to pay a membership fee as provided by section 2 of this act, full credit shall be given for prior service, and in computing the length of service of those entering the state service after July 1, 1929, who have had service prior to July 1, 1929, full credit shall be given for prior service, but no credit for service rendered prior to the date of becoming a member by reason of being a "new state employee" shall be given to any person who was a state employee on July 1, 1929, and did not exercise his option to become a member.

(c). No credit for service shall be allowed any member for periods such member may have been a state employee from June 30, 1929, to July 1, 1939, unless deductions shall have been made from the salary of such member or he has made payment in lieu thereof. From and after July 1, 1939, no credit for service shall be allowed any member for any calendar month in which he receives no salary or wages unless the head of the department gives notice in writing to the secretary of the retirement board within or prior to the calendar month when no salary or wages are received, that the member is on leave, or is on sick leave, or is inactive because of the seasonal nature of his work, as the case may be; or, unless the member's name is carried on the depart-

ment payroll abstract marked "on leave," "sick leave," or "inactive." From and after July 1, 1939, no member shall be entitled to make payments in lieu of salary deductions for periods no salary or wages are received; the deductions made from the compensation received shall cover periods of inactivity provided notice is given or the payroll abstract is marked as provided by this subdivision. Salaries paid for a fractional part of any calendar month shall be considered the compensation for the entire calendar month.

(d). No member shall be entitled to credit for former service upon entering the employ of the state after having received a refund from the retirement fund of accumulated deductions from his salary made pursuant to the provisions of this act, unless he shall restore the amount thereof to said fund as provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-10.

(e). The final power to determine the status of any individual in the employ of the state for the purposes of this act is hereby vested in the retirement board. (Act Apr. 15, 1929, c. 191, §4; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §4; Apr. 22, 1939, c. 432, §2.)

Deductions made to establish fund are not "taxes" but are proceeds of taxes allocated by law to a special fund. *Hessian v. E.*, 204M287, 283NW404. See Dun. Dig. 8007, 9114.

There is no way by which credit for service can be given to a person who was an elective state officer or a state employee, but not an elective state officer July 1, 1929, prior to time when he makes application for membership. *Op. Atty. Gen.* (331a-14), June 17, 1937.

Intention of legislature by 1939 amendment was to require employees to make up payments that were lost during absence from service by reason of lay-off or leave upon their return to the service, and where they have failed to do this they should pay into retirement fund subsequent to July 1, 1939, according to their age at last returning to service. *Op. Atty. Gen.* (331a-9), June 16, 1939.

State university must be considered as a single unit, and is not wholly or substantially financially self-sustaining. *Op. Atty. Gen.* (331), Sept. 16, 1939.

(2). Whether or not a person is entitled to receive credit for services during a period when only employed intermittently should be determined by his status rather than from extent of activity. *Op. Atty. Gen.* (331a-6), Apr. 22, 1936.

**254-5. State Treasurer to be treasurer of association.**—The state treasurer shall be ex-officio treasurer of the retirement funds of said association, and his general bond to the state shall cover all liability for his acts as treasurer of said funds. All monies of said association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall deliver to the secretary of the retirement board each month copies of all payrolls of the state together with the state auditor's warrants covering the deductions made on said payrolls for the retirement fund, whereupon the secretary shall cause to be made in triplicate a list of the auditor's warrants and said warrants shall then be deposited with the state treasurer to be credited to the retirement fund. He shall pay out said fund only on warrants issued by the state auditor, upon vouchers signed by the secretary of the retirement board, provided that vouchers for investments may be signed by the secretary of the state board of investment. (Act Apr. 15, 1929, c. 191, §5; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §5.)

After July 1, 1935, salary deductions are to be based on salaries actually received in view of Laws 1935, cc. 159, 183, 320, 382 and 391. *Op. Atty. Gen.* (331a-12), June 8, 1935.

**254-6. Investment board to invest funds.**—The retirement board shall from time to time certify to the state board of investment for investment such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized legal investments for savings banks and trust companies,

and shall sell any such securities upon request of the retirement board when necessary to provide money for the payment of refunds or annuities to members and/or other lawful obligations. (Act Apr. 15, 1929, c. 191, §6; Apr. 25, 1931, c. 351, §6; Apr. 22, 1935, c. 238, §6.)

State board of investment has no power to sell or accept payments before maturity of bonds held in teacher's retirement, public employee's retirement and state employee's retirement fund without a request of retirement board. Op. Atty. Gen. (928b-5), May 11, 1937.

**254-7. Department of Administration and Finance to make list of employes.**—Within thirty days after this bill becomes a law, the department of administration and finance shall submit to the retirement board a statement showing the name, age, sex, title, compensation, and length of service as a state employe of every employe of the state as defined in Section 1 of this Act, and shall upon request of the retirement board furnish to said board a like statement of all new officers or employes who have entered the service of the state. (Act Apr. 15, 1929, c. 191, §7; Apr. 25, 1931, c. 351, §7.)

**254-8. Attorney General to be legal adviser.**—The attorney general shall be the legal adviser of the retirement board. (Act Apr. 15, 1929, c. 191, §8.)

**254-9. Amount paid to be refunded in certain cases.**—Whenever any member of said association shall cease to be a state employe for any reason other than death or retirement for superannuation, he or she shall be paid, upon making application therefor on blanks furnished by the retirement board, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been a member of the retirement association for not less than ten years may, in lieu thereof, elect in writing within 90 days from the termination of his or her employment to take a proportional deferred annuity beginning at the date he or she would have been eligible to receive an annuity if his or her state service had not terminated. Any member who elects to take a deferred annuity cannot thereafter make application for refundment unless he shall again become a "state employe" and his state service shall again terminate. In the event of the death of a member who has so elected to take a deferred annuity, refundment shall be made as is provided by the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 254-12. The right to such deferred annuity shall be evidenced by a certificate of deferred annuity signed by the chairman and secretary of the retirement board. Members who have elected to take a deferred annuity who again become "state employes" shall surrender their certificates of deferred annuity and shall be entitled to full credit for the service covered by the surrendered certificate. Contributions to the fund are to be made according to the age at the time of again becoming a "state employe."

Any member who has prior to July 1, 1939, maintained his membership by making payments in lieu of salary deductions shall be given a period of three months from July 1, 1939, in which to elect whether to take a refundment or a deferred annuity, such deferred annuity to be based upon the member's allowable state service plus the period membership has been maintained by the payment of assessments in lieu of deductions, but no payments in lieu of deductions can be made after June 30, 1939. All deferred annuities provided for by this section shall begin on the first day of the calendar month. The rights of any member who has prior to the passage of this act made application in writing to the retirement board within 60 days from the termination of his or her employment to retain membership in the retirement association shall not be affected hereby. (Act Apr. 15, 1929, c. 191, §9; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §9; Apr. 22, 1939, c. 432, §3.)

Op. Atty. Gen., Dec. 15, 1934; note under 254-1.

There is an implied right on part of an appointive state employe who becomes an elective state officer to receive a refund of his payments when as such elective officer he exercises his right not to remain a member of association. Op. Atty. Gen. (331a-14), June 17, 1937.

Board has no discretion relative to which of two obligations, refundment and annuity, should be paid first from monthly income, and refundments must take precedence. Op. Atty. Gen. (331a-1), Feb. 3, 1939.

In computing 60 days within which application must be made holidays are to be counted except when last day of period falls on a holiday, when act may be done on next succeeding business day. Op. Atty. Gen. (276B), March 3, 1939.

Where employe discontinued his employment and made application for refund but died before mailing of check, refund should be paid to beneficiary in a lump sum. Op. Atty. Gen. (331a-11), June 5, 1939.

Members may not continue to pay into fund after termination of state employment. Op. Atty. Gen. (331a-9), June 6, 1939.

Intention of legislature by 1939 amendment was to require employes to make up payments that were lost during absence from service by reason of lay-off or leave upon their return to the service, and where they have failed to do this they should pay into retirement fund subsequent to July 1, 1939, according to their age at last returning to service. Op. Atty. Gen. (331a-9), June 16, 1939.

**254-10. Members may be reinstated.**—Whenever a state employe who has so withdrawn his accumulated deductions, shall re-enter the employment of the state and shall restore to the retirement fund his or her accumulated deductions that were withdrawn, with interest from the date of withdrawal to the date of repayment at four per cent per annum compounded annually, the annuity rights forfeited at that time shall be restored. If the amount so withdrawn is not restored within one year from the date of again becoming a member of the retirement association the employe becomes a member but not entitled to credit for former service. And in the case of a member returning to the service of the state without restoring a refundment and again leaving and having a refundment and later returning, such member can only restore the last refundment and will not be entitled to credit for service prior to that covered by the last refundment. Provided that if any member who has received a refundment from the retirement fund has not repaid it upon again becoming a member, and later becomes eligible to receive an annuity, or a deferred annuity, such annuity or deferred annuity shall be computed on the compensation upon which deductions for the retirement fund were based after June 30, 1929, including that covered by the refundment or refundments, and then reduced in the same proportion as the number of years service covered by the refundment or refundments is to the total service. Should any former member who has received either an annuity or a deferred annuity payment or payments again be employed by the state his annuity payments shall cease during his period of employment and deductions shall be made from his earnings. Upon the termination of his employment annuity payments shall be resumed and there shall be no change in the amount of the annuity or deferred annuity payments because of such employment. (Act Apr. 15, 1929, c. 191, §12; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §10; Apr. 22, 1939, c. 432, §4.)

Concluding provision that upon termination of employment annuity payments shall be resumed and there shall be no change in amount was merely intended to cover annuitants who might return to state service temporarily at a lower salary than that upon which their annuity was based. Op. Atty. Gen. (331a-1), May 4, 1939.

Concluding provision of this section does not affect new maximum amount determined by §254-11. Id.

Where elective state officer was granted an annuity in 1937 and received annuity payments for several years, when he again became an elective state officer, annuity payments should cease while he is state officer and deduction should be made from his salary, and upon termination of his state office, he will again be entitled to receive such annuity as is provided, though an elective state officer would not be eligible under present law. Op. Atty. Gen. (331a-1), July 11, 1939.

Person who returned to state service prior to April 22, 1939, date when Laws 1939, c. 472, was approved, has one year from date of reemployment in which to pay his refundment, with interest. Op. Atty. Gen. (331a-4), Sept. 1, 1939.

**254-11. Retirement age—Annuities.**—Whenever any member of the retirement association has been an employee of the state for a period of 20 years and has attained the age of 65 years or when any such employee has been in the service of the state for a period of 35 years, he shall be eligible for retirement for superannuation, but such retirement shall not be compulsory, provided that in computing such term of service the time during which any member of the association shall have maintained his membership by the payment of assessment during the period July 1, 1929, to July 1, 1939, shall be included. Such retirement may be made upon application of the member or of some one acting in his or her behalf, or in case of an employee in active service upon the application of the head of the department in which such member is employed. Upon retirement such member shall receive an annuity for the remainder of his or her life equal to 50 per cent of his or her average salary upon which deductions for the retirement fund have been based while a state employee; provided that no such retirement annuity shall exceed the sum of \$100.00 per month. If the total of annuities shall during any month become greater in amount than the monthly deductions from salaries and contributions made by the state, the board shall proportionally reduce the amount of annuities for said month. In determining the contributions made by the state in any month, it shall be considered that one-twelfth of the amount appropriated for the fiscal year is the amount of the contributions made by the state for that month, provided such one-twelfth does not exceed 50 per cent of the annuities paid and payable for that month. If such one-twelfth exceeds 50 per cent of the annuities paid and payable for that month, then and in that case 50 per cent of the annuities paid and payable for that month shall be considered the amount of the contributions made by the state for that month. The balance of any annuities heretofore not paid in full by reason of the fact that the total of annuities and refundments were greater than the monthly deductions from salaries, shall be paid proportionally in the first and subsequent months when the salary deductions exceed the total of annuities and refundments. Any annuity payments which may subsequent to July 1, 1939, be proportionally reduced by reason of the fact that annuities exceed the salary deductions and contributions made by the state, shall be paid proportionally in the first and subsequent months when the salary deductions and contributions by the state exceed the annuity payments. In making proportional annuity payments for prior months in which the annuities were not paid in full, full payments shall be made for the first month in which annuities were proportionally reduced before any proportional payments shall be made to apply on subsequent months when annuity payments were reduced, and this method shall be followed for each month when only proportional annuity payments were made. (Act Apr. 15, 1929, c. 191, §11; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §10; Apr. 22, 1939, c. 432, §5.)

The beneficiary has no vested right in a pension granted by government except as payments become due him absolutely under the law. *Hessian v. E.*, 204M287, 283 NW404. See Dun. Dig. 1612.

A member of retirement fund association, not as yet entitled to any payments from fund, is without judicial remedy for actuarial deficiencies which threaten solvency of fund. *Id.* See Dun. Dig. 8007.

Public officers and employees are mere agencies of government, and in absence of constitutional restriction, their compensation may be reduced and regulated by law, and contributors to pension fund have no vested right in payments deducted from their salaries which go to make up the fund. *Id.* See Dun. Dig. 8007.

Seasonal employee is entitled to service credit for periods of inactivity. *Op. Atty. Gen.*, Dec. 2, 1933.

Veteran may not be discharged without cause for purpose of retirement under state retirement fund act. *Op. Atty. Gen.* (85e), June 27, 1935.

It is optional for a game warden who has reached retirement age to accept such retirement solely on account of his having reached the age limit, but should not be

required to retire if his services are deemed of value. *Op. Atty. Gen.* (983o), Aug. 20, 1937.

Annuities are payable only from monthly deductions from salaries, while refundments should be paid first from monthly deductions from salary, or, if this is insufficient, out of cash balances not yet invested, and, if necessary, resort should be had to invested funds. *Op. Atty. Gen.* (331a-1), Feb. 3, 1939.

Monthly annuities which are cut in whole or in part cannot be made up in any subsequent month. *Id.*

Pensioner or annuitant has no vested interest that cannot be taken away by legislature during his lifetime. *Id.*

Annuities cannot in whole or in part be paid under any circumstances unless monthly salary deductions are greater than sum of refundments plus annuities. *Id.*

Words "annuities heretofore not paid" refer to annuities in effect prior to passage of Laws 1939, c. 432, and the annuity maximum then in effect, \$150 shall apply for months of January, February, and March, 1939. *Op. Atty. Gen.* (331a-1), May 4, 1939.

Reduction of maximum amount of annuity from \$150 to \$100 applies to those receiving annuities in excess of \$100 per month prior to passage of act. *Id.*

Proportional deferred annuities are computed on 50% of average salary upon which deductions for retirement fund have been based during state employment, and the \$100 limitation is merely a maximum and is not amount from which proportional amount should be computed. *Op. Atty. Gen.* (331a-1), July 28, 1939.

**254-12. [Repealed.]**

Repealed Apr. 22, 1935, c. 238, §2.

Disability annuity once established under Laws 1929, Chap. 191, is not lost by agreement with association to suspend disability allowance during attempt of employee to work. *Op. Atty. Gen.* (331a), Sept. 18, 1936.

**254-13. [Repealed.]**

Repealed Apr. 22, 1935, c. 238, §2.

**254-14. Surviving spouse or legal representative of deceased member to receive lump sum.**—Whenever a member of said association shall die without having received an annuity, or without having received in annuities an amount equal to the total amount of the accumulated deductions from his or her salary, the full amount of said accumulated deductions, less such annuity payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the surviving spouse, or, if none, to the legal representatives of such member, upon the establishment of a valid claim therefor. Any annuity payment to which a member is entitled at the time of his death shall be paid in the same manner. (Act Apr. 15, 1929, c. 191, §14; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §12.)

The title of the amendatory act (Laws 1933, c. 326) purports to amend this section, but the subject-matter of the amendment corresponds to §254-16. See title of act set forth in note under §254-1.

This section purports to be amendatory of Section 12 of Act Apr. 15, 1929, c. 191, as amended by Act Apr. 25, 1931, c. 351, but there is no correspondence in subject-matter. The subject-matter introduced by the amendment corresponds to Section 14 of Act Apr. 15, 1929, c. 191.

Amended and section of original act renumbered as section 12 by Act Apr. 22, 1935, c. 238, §3. Act Apr. 20, 1933, c. 326, is repealed by Act Apr. 22, 1935, c. 238, §2, but §3 of the latter act amends the section to read as above.

Contract rights referred to in this section are limited to right to receive back from association salary deductions or assessments and do not extend to annuities. *Op. Atty. Gen.* (331a-1), Feb. 3, 1939.

Where employee discontinued his employment and made application for refund but died before mailing of check, refund should be paid to beneficiary in a lump sum. *Op. Atty. Gen.* (331a-11), June 5, 1939.

**254-15. To be paid in monthly installments.**—All annuities granted under the provisions of this act shall be paid in equal monthly installments, and shall not be increased, decreased, or revoked except as provided in this act. (Act Apr. 15, 1929, c. 191, §15; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §13.)

See note under §254-1.

Act Apr. 22, 1935, c. 238, §1, amends this section of Act Apr. 15, 1929, c. 191, by renumbering it section 13 instead of 15. No other change is made in the section.

**254-16. Date of retirement.**—No retirement on account of superannuation shall be granted until July 1, 1931, nor shall any member of the retirement association be entitled to receive an annuity for superannuation until he shall have paid into the retirement

fund, either by deductions from salary or otherwise, before such retirement, an amount equal to five years' accumulated deductions from his or her average salary during the last five years of state service, and such additional amount as may be provided by law prior to July 1, 1931, and provided that until July 1, 1931, nothing done hereunder shall create or give any contract rights to anyone, except the right to receive back upon withdrawing from the association, any salary deductions made or assessments paid hereunder. (Act Apr. 15, 1929, c. 191, §16; Apr. 25, 1931, c. 351, §1; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §14.)

Act Apr. 22, 1935, c. 238, §1, amends this section of Act Apr. 15, 1929, c. 191, by renumbering it section 14 instead of 16. No other change is made in the section. See note under §254-1.

**254-17. Funds not subject to process.**—None of the moneys, annuities or other benefits mentioned in this act shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment or other legal process nor shall they be subject to any state income tax. (Act Apr. 15, 1931, c. 191, §16; Apr. 25, 1931, c. 351, §1; Apr. 25, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §15.)

The subject-matter of §§254-17 to 254-22, inclusive, is re-enacted by Act Apr. 20, 1933, c. 326, without change, except by a slight alteration of the language of §254-19. The sections of the amendatory act do not correspond with the sections of the act purported to be amended. The amendatory act is probably unconstitutional because it is not supported by its title.

Act Apr. 22, 1935, c. 238, §1, amends this section of Act Apr. 15, 1929, c. 191, by renumbering it section 15 instead of 17. No other change is made in the section.

**254-18. Insurance laws not to apply.**—None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. (Act Apr. 15, 1929, c. 191, §18; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §16.)

See note under §254-17.

Section of original act renumbered as section 16 by Act Apr. 22, 1935, c. 238, §3. No other change introduced.

**254-19. May receive gifts and bequests.**—The retirement board is hereby authorized and empowered to credit to the fund any moneys received in the form of donations, gifts, appropriations, bequests or otherwise, or derived therefrom. (Act Apr. 15, 1929, c. 191, §19; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §17; Apr. 22, 1939, c. 432, §6.)

See note under §254-17.

Amended section of original act renumbered as section 17 by Act Apr. 22, 1935, c. 238, §3.

**254-19a. Appropriation for fund.**—There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$50,000 for each year or so much thereof as may be necessary to carry out the provisions of this act, provided, however, that any amount paid into the state retirement fund by any unit of the state government which is wholly or substantially financially self-sustaining by reason of income or revenue derived from its own activities, shall be deducted from said annual appropriations of \$50,000. (Act Apr. 22, 1939, c. 432, §7.)

**254-20. Provisions separable.**—If any provision of this act shall be held to be unconstitutional such unconstitutionality thereof shall not affect the validity of the remaining parts of this act. (Act Apr. 15, 1929, c. 191, §20; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §18.)

See note under §254-17.

Act Apr. 22, 1935, c. 238, §3, amends this section of the original act by renumbering it as section 18. No other change introduced.

**254-21. Payments to begin July 1, 1929.**—This act shall take effect upon its passage and approval but no deductions from salary for the retirement fund shall be made from any salary earned prior to July 1, 1929. (Act Apr. 15, 1929, c. 191, §21; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §19.)

See note under §254-17.

Act Apr. 22, 1935, c. 238, §3, amends this section of the original act by renumbering it as section 19. No other change introduced.

**254-22. Board of directors may make rules and regulations.**—Any changes or additions which may be found necessary or advisable for the management of this fund, may be made by a majority vote of the board of directors, provided no increase is made in the amount of deductions from salaries, or decrease in the amount of benefits paid. (Act Apr. 15, 1929, c. 191, §22; Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §20.)

See note under §254-17.

Act Apr. 22, 1935, c. 238, §3, amends this section of the original act by renumbering it as section 20. No other change introduced.

Restrictions against increase or decrease of annuities or benefits did not mean that act itself could not be amended by subsequent legislatures so as to increase or decrease annuity. Op. Atty. Gen. (331a-1), May 4, 1939.

**254-22a. Rights not affected by this act.**—The rights of any member who has prior to the passage of this act filed proof of disability with the retirement board shall not be affected hereby. (Act Apr. 20, 1933, c. 326, §1; Apr. 22, 1935, c. 238, §21.)

#### MUNICIPAL EMPLOYEES' RETIREMENT ASSOCIATION

**254-23. Definitions.**—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

1. "Public Employee" shall mean any person holding a position, either by election, appointment or contract in and for any of the several counties, cities, villages or school districts which are now or hereafter may be affected by the provisions of this act, whose salary is paid, in whole or in part, through taxation, or by fees, assessments or revenue from any one or more of the governmental subdivisions hereinbefore enumerated, irrespective of whether or not such person is directly employed by the authority of, or is under the control and supervision of the governing body of any such county, city, village or school district. The term "public employee" shall also mean any person appointed as a district court reporter in this state; but shall not be construed to include any person, who, by virtue of his employment in the public service is required to contribute any portion of his salary to any other retirement fund or pension system established by or pursuant to the laws of this state and in force and operation at the time of the passage of this act, and neither shall the term "public employee" be deemed to include temporary employes.

From and after the date of passage of this act, the term "public employee" shall be construed so as to exclude any employe of any governmental subdivision for such periods of time as such employe has been or is eligible for membership in any retirement association or pension system established by or pursuant to any one or more of the following laws, and all acts amendatory thereof, to-wit: Revised Laws 1905, Section 1655 [§3728], relating to the establishment of firemen's relief associations; Laws 1907, Chapter 24 [§§3748 to 3750], relating to firemen's pensions in cities of the first class; Laws 1909, Chapter 343 [§§1358 to 1366], relating to pensions for teachers in certain cities; Laws 1915, Chapter 68 [§§1436 to 1442], relating to police pensions in cities of the first class; Laws 1915, Chapter 199 [§§2936 to 2950], relating to teachers' pensions; Laws 1919, Chapter 152 [§§1643-1 to 1643-9], relating to police pensions in cities of the second class; Laws 1919, Chapter 430 [§§1442-1 to 1442-10], relating to pensions for employes of the bureau of health in certain cities of the first class; Laws 1919, Chapter 522 [§§1442-11 to 1442-34], relating to pensions and retirement allowances in certain cities of the first class; Laws 1923, Chapter 179 [§§3729 to 3736], relating to pensions in volunteer fire departments; Laws

1929, Chapter 191 [§§254-1 to 254-22], relating to retirement annuities for state employes; Laws 1931, Chapter 48 [§§1264-6 to 1264-13], relating to police pensions in certain villages, and Laws 1935, Chapter 92 [§§1716-4 to 1716-18], relating to police pensions in certain cities of the third class.

2. "Head of Department" shall mean the head of any department, institution, office or branch of service of any governmental subdivision which directly pays salaries out of its revenues or is empowered to authorize the payment of such salaries.

3. "Accumulated Deductions" shall mean the total of the amounts deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions and credited to his or her individual account in the retirement fund, without interest.

4. "The Retirement Fund" shall mean and include the aggregate of all accumulated deductions from the salaries of members of the retirement association, all assessments paid by such members in lieu of such deductions, and all other monies paid into the state treasury or received by the retirement board pursuant to the provisions of this act, together with all income and profits therefrom and interest thereon.

5. "Governmental subdivision" shall mean a county, or a city, or a village, or a school district, as the case may be.

6. "City" shall be deemed to mean and include any incorporated city of this state, whether operating under a home rule charter or otherwise.

7. "Village" shall be deemed to mean and include any incorporated village of this state now or hereafter having a population of more than 5,000 inhabitants.

8. "School District" shall be deemed to mean and include any independent, common or special school district of this state, which is now or hereafter may be wholly or partly within the limits of any such city, or any such village, and shall also mean any unorganized school territory governed by any county board of education.

9. "Salary" shall mean the periodical compensation of any public employe and shall also be deemed to mean "wages," and, in case of officers elected to a fee office, shall be deemed to include the term "fees."

10. "Present Public Employe" shall mean any public employe receiving salary from any county, city, village or school district on the date of the acceptance of the terms of this act by the governing body of the governmental subdivision by or for which he is employed or from whose funds his salary is paid.

11. "New Public Employe" shall mean any public employe who enters the public service in any county, city, village or school district subsequent to the date of the acceptance of the terms of this act by the governing body of the governmental subdivision by or for which he is employed, or from whose funds his salary is paid. (Act Apr. 24, 1931, c. 307, §1; Apr. 21, 1933, c. 374, §1; Apr. 26, 1937, c. 466, §1.)

Judge of district court is not an employe and may not become member. Op. Atty. Gen., Mar. 25, 1933.

Public employes' retirement association is under control of state and must furnish budget. Op. Atty. Gen., Aug. 8, 1933.

Act is applicable to employes of special school district. Op. Atty. Gen. (331b-1), Mar. 28, 1935.

A city of the third class, such as South St. Paul, operating under home rule charter, need not establish police pensions under §§1436 to 1442 but may establish pensions for all city employes under §254-23, et seq. Op. Atty. Gen. (785j), Aug. 19, 1936.

City that has not adopted provisions of this act cannot grant pensions to old employes. Op. Atty. Gen. (59a-33), Mar. 21, 1933.

Board of water commissioners of city of Stillwater is a part of city government and not an independent corporation separate from city itself, and employes of board are "public employes" of city within meaning of public employes retirement association act. Op. Atty. Gen. (331b), May 18, 1938.

City may not establish system of pensions, except pursuant to this act. Op. Atty. Gen., (335d), June 21, 1938.

Association has power to refund money paid in by members of a city firemen's relief association. Op. Atty. Gen. (331b-5), Dec. 16, 1938.

Employees of utility board of city of second class with home rule charter are eligible for membership in public employes' retirement association, and municipality may not provide a different system. Op. Atty. Gen. (59a-33), Feb. 21, 1939.

An employe who was employed by city prior to passage to resolution is a "present public employe" even though hired on a yearly basis under a contract renewed each year. Op. Atty. Gen. (331B), March 6, 1939.

An employe employed to fill an unexpired term of contract of employment which terminates within four months is not a "temporary employe" if it is probable that the employment will be a continuing one and that reappointment is likely. Id.

Municipal employes retirement association is not subject to reorganization act. Op. Atty. Gen. (640), July 7, 1939.

(1). Legislature did not intend to bar a public employe from membership in the association because of membership in another association or by reason of possible benefits from some other form of annuity or pension system not connected with his present employment. Op. Atty. Gen., May 23, 1931.

(1) (d). It was not the intention of the legislature to bar a public employe from membership because of membership in another association or by reason of possible benefits from some other form of pension systems not connected with his present employment. Op. Atty. Gen., June 26, 1931.

The qualifying clauses in paragraph (d) apply with equal force to paragraphs (a), (b) and (c). Op. Atty. Gen., June 26, 1931.

(2). If city clerk may issue orders or warrants only upon direction of the city council, the council is the only "head of department" within the meaning of the act. Op. Atty. Gen., June 10, 1931.

The "head of any department" means any officer of the city on whose certificate the city clerk is authorized to issue a warrant in payment of salary. Op. Atty. Gen., June 10, 1931.

(10). District court reporters were in public service as such on April 24, 1931, are to be deemed "present public employes," and those who have entered public service subsequent to that date are new public employes. Op. Atty. Gen. (331b), June 15, 1935.

**254-24. Public employes' retirement association established.**—There is hereby established a public employes' retirement association, the membership of which shall consist only of public employes' and employes of said association. Membership in said association shall be optional on the part of the present public employes, but all new public employes except elective public officers shall become members of said association by acceptance of public employment. In all governmental subdivisions heretofore operating under and affected by the provisions of this act prior to January 1, 1933 present public employes who apply for membership therein after January 1, 1932, shall pay a membership fee of Ten (\$10.00) Dollars, but no present public employe shall be eligible to apply for membership in the retirement association after July 1, 1935, except upon the payment of such additional penalties as the retirement board may, by general rule, prescribe. In addition to such membership fee, every present public employe who becomes a member of the retirement association shall pay in a sum equal to all accrued deductions from his or her salary which would have been made had such employe become a member of the retirement association July 1, 1931, with interest thereon at the rate of five per cent (5%) per annum, compounded annually. In all governmental subdivisions wherein the governing body thereof has duly accepted the provisions of this act subsequent to January 1, 1933, and prior to May 1, 1935, present public employes who apply for membership in the retirement association after January 1, 1934, shall pay a membership fee of Ten (\$10.00) Dollars, but no such present public employe shall be eligible to apply for membership in the retirement association after July 1, 1935, except upon the payment of such additional penalties as the retirement board may, by general rule, prescribe. In addition to such membership fee every such present public employe who becomes a member of the retirement association shall pay in a sum equal to all

accrued deductions from his or her salary which would have been made had such public employe become a member of the retirement association July 1, 1933, with interest thereon at the rate of five per cent (5%) per annum compounded annually. In all governmental subdivisions wherein the governing body thereof has duly accepted the provisions of this act subsequent to May 1, 1935, present public employes may apply for membership in said association at any time within a period of two years from the first day of the first calendar month next succeeding the date of the acceptance of the terms of this act by the governing body of the governmental subdivision concerned and at any time thereafter upon the payment of such additional penalties as the retirement board may, by general rule, prescribe. Any such present public employe who shall apply for membership in said association shall be required to pay a membership fee of Ten (\$10.00) Dollars. In addition thereto, any such present public employe shall pay into the retirement fund a sum equal to all accrued deductions which [would] have been made had such present public employe become a member of said association on the first day of the first calendar month next succeeding the date of the acceptance of the terms of this act by the governing body of the governmental subdivision concerned, together with interest thereon at the rate of five per cent (5%) per annum."

An elected public officer, eligible for membership in said association, may exercise his option to become a member thereof, but such option once exercised, may not be withdrawn during the incumbency of such officer in the office to which he was elected or re-elected. If holding office at the time of the acceptance of the terms of this act by the governing body of the governmental subdivision concerned, the terms and conditions of membership pertaining to a present public employe shall govern the admission of such elected public officer to membership in said association. Any person elected to a public office in any governmental subdivision affected by the provisions of this act, subsequent to the date of the acceptance of the terms of this act by the governing body of the governmental subdivision concerned, may apply for membership in said association at any time within a period of two (2) years from the date he first became eligible for membership in said association, and at any time thereafter upon the payment of such additional penalties as the retirement board may, by general rule, prescribe. Any such person who applies for membership in said association shall be required to pay a membership fee of Ten (\$10.00) Dollars. In addition thereto, any such elected public officer shall pay into the retirement fund a sum equal to all accrued deductions which would have been made had such elected public officer become a member of said association on the first (1st) day of the first (1st) calendar month next succeeding the date he first assumed the office to which he was elected, together with interest thereon at the rate of five per cent (5%) per annum.

Any person appointed to fill a vacancy in an elective office and becomes eligible thereby to membership in said association may likewise exercise his option to become a member thereof under the terms and conditions that govern the admission of elective public officers to membership in said association.

Except as in this act otherwise provided, membership in said association may not be terminated by resignation, or in any manner other than by death, or by leaving the employ of the governmental subdivision concerned. On or after the passage of this act, no employe of any governmental subdivision shall be required to become a member of any retirement fund or relief association, or to contribute to any fund established for such purpose, except the retirement fund established pursuant to the provisions of this act. (Act Apr. 24, 1931, c. 307, §2; Apr. 21, 1933,

c. 374, §1; Apr. 5, 1935, c. 106, §2; Apr. 26, 1937, c. 466, §2.)

The word "would" enclosed in brackets was omitted from the Apr. 26, 1937, amending act.

Elective officers have the option of joining or not joining the association. Op. Atty. Gen., June 10, 1931.

In determining who are new public employes, April 24, 1931, governs, and not the date of the approval of the act by the head of a department. Op. Atty. Gen., June 26, 1931.

Where a certain employe of the city of St. Paul was given "provisional employment" prior to passage of this act and later passed an examination and was certified for permanent employment, he is entitled to elect whether he will or will not become a member of the association. Op. Atty. Gen., Sept. 3, 1931.

Elective public official cannot withdraw after having elected to become member. Op. Atty. Gen., Aug. 3, 1933.

Time limits fixed by statute as to acceptance of membership may not be waived by retirement board nor may \$10 membership fee be waived. Op. Atty. Gen. (331b-1), Sept. 23, 1934.

Policemen in cities of third class covered by Laws 1935, c. 92, §1, are exempt from provisions of this act. Op. Atty. Gen. (331b-1), Apr. 15, 1935.

Application for membership may be accepted within two years after date a public official first assumed office to which he was elected. Op. Atty. Gen. (605b-30), May 15, 1936.

**254-25. Board of directors—membership—terms.**—The management of the said public employes' retirement fund is hereby vested in a board of nine (9) members, who shall be known as the Public Employes' Retirement Board. Said board shall consist of the state auditor, the state insurance commissioner, the state treasurer, and six (6) public employes who shall be elected by the members of the retirement association at a time and in a manner to be fixed by the retirement board. The members of said board so elected shall hold office for a term of three (3) years and until their successors are elected and qualified; provided that at the first (1st) election held after the passage of this act, two (2) of said members shall be elected for a term of one (1) year, two (2) members for a term of two (2) years, and two (2) members for a term of three (3) years. Within thirty (30) days after the passage of this act, at the call of state auditor, said association shall meet and elect the six (6) members to the retirement board. The members of the retirement board shall serve without compensation, but shall be reimbursed out of the retirement fund for expenses actually and necessarily paid or incurred in the performance of their duties, and shall suffer no loss of salary or wages through service on such board. The board shall elect a chairman and shall appoint a secretary and such other employes as may be necessary and fix their compensation. The board shall, from time to time, subject to the limitations of this act and of the law, establish rules and regulations for the administration of the retirement and other provisions of this act and for the transaction of its business. (Act Apr. 24, 1931, c. 307, §3.)

**254-26. Retirement fund.**—Every member of the retirement association shall pay into the retirement fund three and one-half per cent (3½%) of his salary as a public employe as and when paid. Such payment shall be made by deduction thereof from such salary, provided, however, that under such regulations as the retirement board may by general rule prescribe, any member may, at his option, continue to make contributions to the retirement fund on the basis of his last regular salary, in case said salary is diminished or reduced for any cause and thereby become entitled to the same annuity as though there had been no diminution or reduction in such salary. The head of each department is hereby directed to cause such deductions to be made at least once each month from the salary of each member of the retirement association and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries and to cause the same to be remitted within fifteen (15) days thereafter to the secretary of the retirement board

together with a statement showing the amount of each of such deductions, the amount of salaries from which such deductions have been made and the names of the employes on whose accounts the same have been made. All remittances so received by the secretary of the retirement board shall be promptly deposited with the state treasurer. Deductions from the salaries of district court reporters shall be made by the several county auditors of the state. Each county auditor of the state shall make such deduction from the amount of each warrant issued by him in payment of the salary of a district court reporter and shall on or before the fifteenth (15th) day of each month issue a warrant to the order of the state treasurer for the aggregate amount of all such deductions made by him during the preceding month and shall transmit the same to the secretary of the retirement board with a statement showing the amount of each of such deductions and the names of the district court reporters on whose account the same have been made, provided that the deductions from the salary of a district court reporter in a judicial district consisting of two or more counties shall be made by the auditor of the county in which the bond and official oath of such district court reporter are filed from the portion of his salary paid by such county. All salary deductions shall be credited to a fund to be known as the retirement fund and all interest and other income of said association shall be credited to said fund. The retirement fund shall be disbursed only for the purposes herein provided. The expenses of said association and the annuities herein provided upon retirement shall be paid only from said fund. (Act Apr. 24, 1931, c. 307, §4; Apr. 21, 1933, c. 374, §1.)

Retirement association has authority to require governmental units to furnish payroll records or their equivalents or to inspect payrolls to determine whether employes have been properly reported. Op. Atty. Gen. (331B), July 7, 1939.

**254-27. State treasurer to be custodian of funds.**—The state treasurer shall be ex-officio treasurer of the retirement funds of said association and his general bond to the state shall be so conditioned as to cover all liability for his acts as treasurer of said funds. If the general bond of the state treasurer, at the time of the passage of this act, shall cover all liability for his acts as treasurer of said funds, no additional bond shall be required. If not, the said state treasurer shall execute to the State of Minnesota for the use and benefit of said State of Minnesota and all persons injured by failure to observe its conditions, a penal bond in such a sum as may be fixed by the retirement board and with such sureties as the governor and the state auditor may approve, conditioned that he will pay over to all persons on demand all monies to which they may be entitled which may have come into his hands in virtue or by reason of his office as such treasurer of said funds. All monies of said association received by him shall be set aside in the state treasury to the credit of the proper fund. He shall transmit monthly to the secretary of the retirement board a detailed statement of all amounts so received and credited by him to said fund. He shall pay out said fund only on warrants issued by the state auditor, upon vouchers signed by the secretary of the retirement board, provided that vouchers for investment may be signed by the secretary of the state board of investment. (Act Apr. 24, 1931, c. 307, §5.)

The public employes' retirement board, if doubtful as to whether or not the general bond of the state treasurer covers his official acts as treasurer of the retirement fund, should obtain the consent of the sureties to the inclusion of the new liability, and if such consent cannot be had the board would be justified in requiring an additional bond. Op. Atty. Gen., June 26, 1931.

**254-28. State board of investment to invest funds.**—The retirement board shall from time to time certify to the state board of investment for investment

such portions of the retirement fund as in its judgment may not be required for immediate use. The state board of investment shall thereupon invest the sum so certified in such securities as are duly authorized as legal investments for savings banks and trust companies, and shall sell any such securities upon request of the retirement board when necessary to provide money for the payment of refunds or annuities to members and for other lawful obligations. (Act Apr. 24, 1931, c. 307, §6.)

State board of investment has no power to sell or accept payments before maturity of bonds held in teacher's retirement, public employes' retirement and state employes' retirement fund without a request of retirement board. Op. Atty. Gen. (928b-5), May 11, 1937.

**254-29. Heads of departments to make monthly statements.**—Within ninety (90) days after the acceptance of the terms of this act by the governing body of any governmental subdivision, the heads of departments affected shall submit to the retirement board a statement showing the name, age, sex, title, compensation, and length of service in his department of every public employe in his department as defined in Section 1 of this act, and on the first (1st) day of each calendar month thereafter shall furnish the retirement board a like statement of all new officers or employes who have entered the public service as public employes in his department, and at the same time shall notify the board of all removals, withdrawals and changes in salaries of any members of the retirement association which have occurred during the preceding month, and shall furnish to said board a like statement of all new officers or employes who have entered the service as public employes. (Act Apr. 24, 1931, c. 307, §7; Apr. 21, 1933, c. 374, §1.)

The department heads need not make the reports required by this section until the act is made applicable by compliance with Section 24 [§254-46], and strict compliance with this section is not required. Op. Atty. Gen., June 26, 1931.

**254-30. Attorney General to be legal advisor.**—The attorney general shall be the legal advisor of the retirement board. Said board may sue, or be sued, in the name of the Public Employes' Retirement Board of the Public Employes' Retirement Association, and, in all actions brought by it, or against it, said board shall be represented by the attorney general. (Act Apr. 24, 1931, c. 307, §8; Apr. 21, 1933, c. 374, §1.)

**254-31. Payments upon retirement.**—Whenever any member of said association shall cease to be a public employe for any reason other than death or retirement, he shall be paid, on demand, after fifteen (15) days' notice, the full amount of the accumulated deductions standing to the credit of his or her individual account, provided that any such member who has been in the public service for not less than four (4) consecutive years immediately prior thereto may, in lieu thereof, upon application in writing to the retirement board within sixty (60) days from the termination of his or her employment, be permitted to retain membership in the retirement association and to enjoy all the rights and privileges thereof upon such terms and conditions as to his employment and the payment of assessments in lieu of salary deductions as the retirement board may by general rule prescribe. Any member of the retirement association who has maintained his or her membership after leaving the public service by the payment of such assessments may terminate such membership by notice in writing to the retirement board, whereupon he or she shall be paid on demand, after fifteen (15) days' notice, the full amount of the accumulated deductions standing to the credit of his or her individual account. (Act Apr. 24, 1931, c. 307, §9; Apr. 21, 1933, c. 374, §1; Apr. 26, 1937, c. 466, §3.)

A public official who has spent twenty years in public service but who retires prior to reaching the age of sixty-five years may continue to make payments into the retirement fund and be eligible to an annuity upon reaching the required age. Op. Atty. Gen., July 24, 1931.

**254-32. Forfeited rights shall be restored.**—Whenever a public employe, who has so withdrawn his accumulated deductions shall re-enter the public service within five (5) years after such withdrawal, the annuity rights forfeited by such employe at the time of such withdrawal shall be restored upon repayment by such employe to the retirement fund of the full amount so withdrawn, with interest thereon at the rate of five per cent (5%) per annum, compounded annually from the date of withdrawal and in addition thereto an amount equal to the sum that he would have contributed to said fund had he elected to retain membership in said association, together with interest on the same computed at the rate of five per cent (5%) per annum, compounded annually. Unless such public employe shall make the payments as herein provided, with interest thereon at the rate of five per cent (5%) per annum compounded annually from the date he shall have so re-entered the public service, he shall be required, before any retirement is granted to him, to make or to have made contributions to the retirement fund for a period of years equivalent to that originally required of him for the purpose of qualifying for a retirement annuity at the time he first became a member of said association. (Act Apr. 24, 1931, c. 307, §10; Apr. 21, 1933, c. 374, §1.)

**254-33. Retirement.**—Except as in this act otherwise provided, whenever any member of the retirement association has been a public employe for a period of twenty (20) years and has attained the age of sixty-five (65) years, or when any such employe has been a public employe for a period of thirty-five (35) years, he shall be eligible for retirement, provided that in computing such terms of service, the time during which any member of the association shall have maintained his membership by the payment of assessments after leaving the service as a public employe, in lieu of deductions, shall be included. Provided, however, that no person admitted to membership in said association after May 1, 1937 shall be entitled to receive a retirement annuity unless he has either attained the age of sixty-five (65) years and has been a public employe for a period of twenty (20) years, or has attained the age of sixty (60) years and has been a public employe for a period of at least thirty-five (35) years. Such retirement shall be made upon application of the member or of someone acting in his or her behalf, or in the case of any employe in active service upon the application of the head of the department in which such member is employed. Except as in this act otherwise provided, upon such retirement such member shall receive an annuity for the remainder of his or her life equal to fifty (50) per centum of the average annual salary received for the entire period of his or her membership in said association, provided, that in computing the average annual salary of members who have contributed by assessments, in lieu of salary deductions or otherwise, the average annual salary received while such member was in the public service as a member of said association shall, for the purpose of construing this section, be considered the salary of such member for that period of his membership in said association during which he made contributions to the retirement fund by assessments, in lieu of salary deductions or otherwise, and provided, further, that in computing the period of past service, employment by or for any of the governmental subdivisions as defined and enumerated by this act shall be counted, irrespective of whether or not the governing body of such governmental subdivision has qualified its public employes for membership in said association, and provided further, that no such retirement annuity shall, in any event, exceed the sum of One Thousand Eight Hundred (\$1,800.00) Dollars per annum. Membership in said association for any present public employe shall com-

mence upon the date of the acceptance of the application for membership by the retirement board and, in no event, shall said retirement board grant to any member any pro rata annuity, as hereinafter provided for in Section 16 of this act, until and unless four full years of membership in said association shall have elapsed, nor shall said retirement board grant any pro rata annuity based on a greater number of years of contributions to the retirement board than stands to the credit of such member on the books of said association, or any full retirement annuity, as hereinafter provided, until and unless five full years of membership have so elapsed. (Act Apr. 24, 1931, c. 307, §11; Apr. 21, 1933, c. 374, §1; Apr. 5, 1935, c. 106, §2; Apr. 26, 1937, c. 466, §4.)

Board may grant annuities to take effect upon actual date of retirement, monthly installments to commence one month from time of such retirement. Op. Atty. Gen. (331h), Feb. 23, 1937.

**254-34. [Repealed.]**

Repealed Apr. 21, 1933, c. 374, §2.

**254-35. [Repealed.]**

Repealed Apr. 21, 1933, c. 374, §2.

**254-36. Heirs or legal representatives to receive benefit of funds.**—Whenever any member of said association shall die without having received an annuity, or without having received in annuity payments an amount equal to the total amount of the accumulated deductions from his or her salary, and such additional accumulated deductions, if any, as may have been paid into the retirement fund under and pursuant to the provisions of Section 16 of this act, exclusive, however, of any payments representing accrued interest, the full amount of such total accumulated deductions and additional accumulated deductions, if any, less such annuity payments, if any, as have been paid to such member, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or, if none, to the legal representatives of such member, upon establishment of a valid claim therefor. Provided, however, if no valid claim is established therefor, the said accumulated deductions shall remain with and become the property of said retirement association. (Act Apr. 24, 1931, c. 307, §14; Apr. 21, 1933, c. 374, §1.)

**254-37. Annuities payable monthly.**—All annuities granted under the provisions of this act shall be paid in equal monthly installments, commencing one (1) month from the time of retirement and continuing only during the lifetime of the annuitant, and shall not be increased, decreased or revoked, except as provided in this act. (Act Apr. 24, 1931, c. 307, §15; Apr. 21, 1933, c. 374, §1.)

Board may grant annuities to take effect upon actual date of retirement, monthly installments to commence one month from time of such retirement. Op. Atty. Gen. (331h), Feb. 23, 1937.

**254-38. Retirement to begin July 1, 1935.**—No retirement annuity shall be granted under the provisions of this act until July 1, 1935, nor shall any member of the retirement association be entitled to receive a retirement annuity until he shall have contributed to the retirement fund either by salary deductions or otherwise for a period of four (4) full years and unless he shall have been a member of said association for a like period. Provided, however, that if any member who is eligible for retirement and who has attained to the age of sixty-five (65) years has contributed to the retirement fund for a period of less than twenty (20) years, he shall be entitled to receive a pro rata retirement annuity for the remainder of his life in an amount bearing the same ratio to the full retirement annuity that the period of his salary deductions, or assessments in lieu thereof, bears to twenty (20) years, but fractional parts of a year shall not enter into the computation of such pro rata retirement annuity. Provided, further, that whenever any such member shall have become eligible to receive a pro rata re-

tirement annuity, as hereinbefore provided, and shall have contributed to the retirement fund for a period of five (5) full years, and shall have been a member of said association for a like period, such member may, if he shall so elect at any time before making application for such pro rata retirement annuity make application for a full retirement annuity, or for a pro rata retirement annuity based on a greater number of years of contributions to the retirement fund than then stand to his credit on the books of said association, and, in either case, the same shall be granted to him upon compliance with the following terms and conditions, to-wit:

(a) In case such member shall make application for a full retirement annuity, the retirement board, before granting said application, shall do the following things, to-wit:

1. Determine the number of full years of contributions required of such member to make a total of twenty (20) full years of contributions by him to the retirement fund.

2. Determine the average annual amount of the accumulated deductions of such member for the period of his membership in said association.

3. Determine the amount of the additional accumulated deductions to be required of such member by multiplying the number of years as determined by the method prescribed in sub-paragraph one (1) hereof by the average annual amount of his accumulated deductions, as determined in the manner prescribed by sub-paragraph two (2) hereof.

4. Require that such member shall pay into the retirement fund, before such full retirement annuity shall be granted, the total amount of his additional accumulated deductions, as determined by the methods prescribed by sub-paragraph three (3) hereof, and, in addition thereto, a further amount representing an accrued interest payment, to be determined as follows:

In the case of fifteen (15) years of additional contributions required, an amount equal to forty-eight (48%) per cent of the total accumulated deductions required for such period, and in case of fourteen (14) years of additional contributions required, or less, an amount to be determined in like manner, based on percentages of the total accumulated deductions required in each instance, as hereinafter set forth, to-wit: Fourteen (14) years, fifty (50%) per cent; thirteen (13) years, fifty-two (52%) per cent; twelve (12) years, fifty-four (54%) per cent; eleven (11) years, fifty-six (56%) per cent; ten (10) years, fifty-eight (58%) per cent; nine (9) years, sixty (60%) per cent; eight (8) years, sixty-two (62%) per cent; seven (7) years, sixty-four (64%) per cent; six (6) years, sixty-six (66%) per cent; five (5) years, sixty-eight (68%) per cent; four (4) years, seventy (70%) per cent; three (3) years, seventy-two (72%) per cent; two (2) years, seventy-four (74%) per cent; one (1) year, seventy-six (76%) per cent. Provided, that after the total amounts required of such member have been determined, as hereinbefore set forth, credit thereon shall be allowed such member for the amount contributed by him to the retirement fund through salary deductions, or otherwise, during the fractional part of any year not included in the computation for a full retirement annuity.

(b) In case such member shall make application for a pro rata retirement annuity based on a greater number of full years of contribution than then stands to his credit on the books of said association, the retirement board, in the manner hereinbefore provided, shall determine the amount of the additional accumulated deductions required under such application and shall require that such applicant shall pay into the retirement fund before such greater pro rata retirement annuity is granted, all additional accumulated deductions required, and, in addition thereto, such further and additional amounts representing

accrued interest payments as may be determined in the manner hereinafter set forth, to-wit:

In case of one (1) additional year's credit, an amount equal to that percentage of the total accumulated deductions required for one (1) year as may be determined by multiplying the number of full years such member has contributed to the retirement fund by four (4%) per cent. In case of two (2) additional years' credit, an amount equal to that percentage of the additional accumulated deductions required as in the case of one (1) additional year's credit, and in addition thereto, a further amount equal to two (2%) per cent of the total accumulated deductions required. In like manner for three (3) additional years' credit, or more, an amount equal to that percentage required as in the case of one (1) additional year's credit, and, in addition thereto, a further amount computed on the following percentage of the total accumulated deductions required in each instance as hereinafter set forth, to-wit: Three (3) additional years' credit, four (4%) per cent; four (4) additional years' credit, six (6%) per cent; five (5) additional years' credit, eight (8%) per cent; six (6) additional years' credit, ten (10%) per cent; seven (7) additional years' credit, twelve (12%) per cent; eight (8) additional years' credit, fourteen (14%) per cent; nine (9) additional years' credit, sixteen (16%) per cent; ten (10) additional years' credit, eighteen (18%) per cent; eleven (11) additional years' credit, twenty (20%) per cent; twelve (12) additional years' credit, twenty-two (22%) per cent; thirteen (13) additional years' credit, twenty-four (24%) per cent; fourteen (14) additional years' credit, twenty-six (26%) per cent; fifteen (15) additional years' credit, twenty-eight (28%) per cent. Provided that after such total amount required of such member has been determined, as hereinbefore set forth, credit thereon shall be allowed such member for any amount contributed by him to the retirement fund through salary deductions, or otherwise, during the fractional part of any year not included in the computation for such greater pro rata retirement annuity. Provided further, nothing done under the terms of this act shall create or give any contract rights to any person, except the right to receive back upon withdrawal from the association, through separation from the public service any salary deductions made or assessments paid hereunder.

As hereinbefore provided, the minimum requirements for a retirement annuity for any applicant who has attained to the age of sixty-five (65) years, shall be twenty (20) years of contributions to the retirement fund, or its equivalent, with an amount representing accrued interest earnings, as hereinbefore set forth. In the case of any member who becomes eligible for retirement at any age earlier than sixty-five (65) years, the said minimum requirements as to years of contributions before any full retirement annuity or any pro rata retirement annuity based on a greater number of years of contributions than then stand to his credit on the books of said association shall be granted, shall be twenty (20) years increased by one (1) year for each year that the said applicant is under the age of sixty-five (65) years, in accordance with the following schedule, to-wit: Age sixty-four (64), twenty-one (21) years; age sixty-three (63), twenty-two (22) years; age sixty-two (62), twenty-three (23) years; age sixty-one (61), twenty-four (24) years; age sixty (60), twenty-five (25) years, provided, however, that in the case of any member who shall have reached the age of 60 years on May 1, 1937, and who, prior to June 1, 1936, shall have left the public service and maintained membership by payment of assessments, the minimum requirements for a full retirement annuity shall be 20 years, regardless of the attained age at the time of any such retirement.

From and after May 1, 1937, no full retirement annuity or any pro rata retirement annuity based on a greater number of years of contributions than the number of years he shall have been a member of said association shall be granted to any member of said association who has not attained to the age of sixty (60) years, and with respect to any such member said retirement board may grant only a pro rata annuity in an amount bearing the same ratio to a full retirement annuity as the period of full years of salary deductions or assessments received in lieu thereof during his membership in the association, or its equivalent, with an additional amount representing accrued interest earnings, shall bear to the number of years expressed in the following schedule of requirements as to the years of contributions for a pro rata retirement annuity at any given age of the applicant, to-wit: Age fifty-nine (59), twenty-six (26) years; age fifty-eight (58), twenty-seven (27) years; age fifty-seven (57), twenty-eight (28) years; age fifty-six (56), twenty-nine (29) years; age fifty-five (55), thirty (30) years; age fifty-four (54), thirty-one (31) years; age fifty-three (53), thirty-two (32) years; age fifty-two (52), thirty-three (33) years; age fifty-one (51), thirty-four (34) years, and age fifty (50), thirty-five (35) years.

The retirement board shall by general rule adopt regulations and schedules of rates of payments required of applicants who shall become eligible for retirement at ages earlier than sixty-five (65), which regulations shall provide for the granting of pro rata retirement annuities in amounts bearing the same ratio to a full retirement annuity as the period in full years of salary deductions, or assessments received in lieu thereof, or its equivalent with an additional amount representing accrued interest earnings, shall bear to the number of years expressed in the above schedule of minimum requirements as to years of contributions for a full retirement annuity at any given age of the applicant. Provided, however, that the retirement board shall not grant any full retirement annuity or any pro rata retirement annuity based on a greater number of years of contributions to the retirement fund than then stand to the credit of the applicant until such member shall have been a member of said association for a period of five (5) full years. If the total of annuities shall during any year become greater in amount than the annual contributions, the retirement board shall proportionately reduce the amount of annuities. (Act Apr. 26, 1937, c. 466, §5.)

If the total of annuities shall during any year become greater in amount than the annual contributions, the retirement board shall proportionately reduce the amount of annuities. (Act Apr. 24, 1931, c. 307, §16; Apr. 21, 1933, c. 374, §1; Apr. 26, 1937, c. 466, §5.)

**254-39. [Repealed.]**

Repealed Apr. 21, 1933, c. 374, §2.

**254-40. Annuities not assignable.**—None of the monies, annuities or other benefits provided for in this act shall be assignable, either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, nor shall the same be subject to any state income tax. (Act Apr. 24, 1931, c. 307, §18.)

**254-41. Insurance laws do not apply.**—None of the laws of this state regulating insurance or insurance companies shall apply to the retirement association or any of its funds. The books and accounts of said association and said retirement fund shall be examined and audited annually by the public examiner of the state and a full and detailed report thereof made to the retirement board, without expense to said retirement fund. (Act Apr. 24, 1931, c. 307, §19; Apr. 21, 1933, c. 374, §1.)

**254-42. Contributions, etc., to retirement fund.**—The retirement board is hereby authorized and empowered to credit to the fund any monies received in the form of contributions, donations, gifts, appropriations, bequests or otherwise; and every member of said retirement association who shall fail to demand the amount of his accumulated deductions within five (5) years after his separation or withdrawal from the public service shall be deemed to have donated the same to the retirement fund, unless he shall have retained his membership in the retirement association, as hereinbefore provided. (Act Apr. 24, 1931, c. 307, §20; Apr. 26, 1937, c. 466, §6.)

**254-43. Provisions separable.**—If any provision of this act shall be held to be unconstitutional, such unconstitutionality thereof shall not affect the validity of the remaining parts of this act. (Act Apr. 24, 1931, c. 307, §21.)

**254-44. Board may make regulations.**—Any changes or additions which may be found necessary or advisable for the management of this association, may be made by a majority vote of the retirement board, provided that no increase is made in the amount of deductions from salaries, nor decrease in the amounts of benefits authorized under and pursuant to this act. (Act Apr. 24, 1931, c. 307, §22.)

Time limits fixed by statute as to acceptance of membership may not be waived by retirement board nor may \$10 membership fee be waived. Op. Atty. Gen. (331b-1), Sept. 28, 1934.

**254-45. Penalties for false information.**—Any person who shall give any false information to the retirement board or any officer or agent of the said retirement association for the purpose of obtaining membership in such association, or any person, who shall wilfully fail or refuse to perform or discharge any duty prescribed by this act, shall, upon conviction thereof, be guilty of a misdemeanor. (Act Apr. 24, 1931, c. 307, §23.)

**254-46. Application of act.**—The provisions of this act shall not apply to any county, city, village or school district, or the employes thereof, until and unless the governing body of any such county, city, village or school district, shall have duly approved by a majority vote and by a resolution in writing of salary deductions for public employes, as contemplated by Section 4 of this act, and shall have filed a duly certified copy of such resolution of approval with the proper officials of the county, city, village or school district, whose duty it is to pay or authorize the payment of salaries, and one (1) such certified copy with the secretary of the retirement board. Salary deductions for present public employes in all governmental subdivisions heretofore operating under and affected by the provisions of this act prior to January 1, 1933, shall be computed from the first day of July, 1931, and in all governmental subdivisions wherein the governing body thereof has duly accepted the provisions of this act subsequent to January 1, 1933, and prior to May 1, 1935, shall be computed from the first day of July, 1933. Salary deductions for present public employes in all governmental subdivisions wherein the governing body thereof has duly accepted the terms and provisions of this act subsequent to May 1, 1935, and who shall thereafter become members of the retirement association shall be computed from the first day of the first calendar month next succeeding the date of the acceptance of the terms of this act by the governing body of the governmental subdivision concerned. (1st) day of July, 1933. (Act Apr. 24, 1931, c. 331, §1; Apr. 21, 1933, c. 374, §1; Apr. 5, 1935, c. 147, §3.)

Municipality electing to come under provisions of law may not withdraw from its operation. Op. Atty. Gen. (331B), May 9, 1939.

## MISCELLANEOUS PROVISIONS

**254-47. Auto hire for municipal employes.**—The maximum amount which shall be paid by the State, any department or bureau thereof, or any county, city, village, town or school district, to any officer or employe except sheriffs or deputy sheriffs, as compensation or reimbursement for the use by such officer or employe of his own automobile in the performance of his duties, shall not exceed five cents per mile. In case of sheriffs and deputy sheriffs the maximum amount so to be paid shall not exceed seven cents per mile. (Act Apr. 24, 1931, c. 307, §24; Feb. 6, 1933, c. 13; Apr. 20, 1935, c. 225, §1.)

This law does not apply to trips made prior to its approval. Op. Atty. Gen., April 27, 1931.

It is lawful to allow additional compensation of one cent per mile to a state officer or employe for the use of his car where another state officer or employe travels with him. Op. Atty. Gen., April 27, 1931.

This act applies to mileage allowance to sheriff for use of his car in county work, but it has no application to his permissible fees for serving civil papers, and generally speaking county may make an additional allowance to sheriff for transporting prisoner in his car where such an allowance is otherwise authorized. Op. Atty. Gen., May 6, 1931.

County commissioners are only entitled to be reimbursed at the rate of seven cents per mile for the use of automobile in the performance of their official duties. Op. Atty. Gen., May 18, 1931.

Law applies to a sheriff driving his own automobile in criminal cases, and to a deputy sheriff, where the deputy received no salary. Op. Atty. Gen., May 18, 1931.

Law does not affect rights of a sheriff under the old law where he employs a taxi or automobile livery of a third person. Op. Atty. Gen., May 18, 1931.

This act does not affect Section 657. Op. Atty. Gen., May 23, 1931.

This act affects mileage allowance of sheriffs of some counties under Section 693. Op. Atty. Gen., May 23, 1931.

The limitation of seven cents per mile for use of automobile applies to Section 5353-2 if the county nurse furnishes her own automobile and bills the county for use thereof, but not if the county furnishes the automobile and gasoline and repairs. Op. Atty. Gen., May 23, 1931.

This act modifies Section 962 so as to limit allowance for use of automobile to seven cents per mile. Op. Atty. Gen., May 23, 1931.

This act is not applicable to the city of Minneapolis where employes are paid a specific sum per month as automobile allowance. Op. Atty. Gen., June 2, 1931.

In the absence of a special statute applicable to a particular county, this act is applicable and limits allowance for use of sheriff's own automobile. Op. Atty. Gen., June 4, 1931.

If a county attorney is entitled to receive reimbursement for the use of his own car on county business, it is limited to seven cents per mile by this act. Op. Atty. Gen., June 4, 1931.

Expense allowances of county commissioner governed by Section 657 are affected by this act, but if the county is governed by Section 656, allowance for reimbursement for use of car is limited by this act. Op. Atty. Gen., June 4, 1931.

Allowance for traveling expenses of members of county child welfare board is limited specifically by Laws 1931, c. 242. Op. Atty. Gen., June 4, 1931.

This act does not prevent sheriff collecting taxes pursuant to Section 2090 from charging mileage at the rate of ten cents and adding it to the tax. Op. Atty. Gen., June 8, 1931.

A sheriff transporting a feeble-minded person to a state institution is entitled to reimbursement for his actual expenses in transporting the person mentioned, and where he uses his own car the expense may exceed seven cents per mile while the feeble-minded person is in the car. Op. Atty. Gen., June 15, 1931.

This act only limits the amounts which may be paid by the state or any governmental subdivision thereof, and does not limit the mileage which a public officer may charge to an individual in connection with official services rendered. Op. Atty. Gen., July 2, 1931.

Where the statute allows a certain sum per mile as mileage without any statement that it is as reimbursement for automobile or other expenses of traveling, the allowance is not affected by this law. Op. Atty. Gen., July 7, 1931.

This act does not affect the mileage allowance provided in §657 to county commissioners. Op. Atty. Gen., Jan. 22, 1932.

This section does not affect the mileage allowance provided for in §854 to county commissioners. Op. Atty. Gen., Jan. 22, 1932.

County attorney may not collect mileage for use of his personal automobile, but he may be reimbursed for gas and oil. Op. Atty. Gen., June 14, 1932.

Assessor is not entitled to charge for use of his automobile while actually assessing property. Op. Atty. Gen., July 6, 1932.

No provision is made for compensation when sheriff uses his own automobile in transporting prisoner to state prison or state reformatory, but sheriff is entitled to allowance of amount equivalent to railroad fare for himself, prisoner and guards. Op. Atty. Gen., July 6, 1932.

This act does not supersede Mason's Stats., 1927, §6995. Op. Atty. Gen., Oct. 14, 1932.

Act does not affect mileage of jurors or witnesses. Op. Atty. Gen., Jan. 25, 1933.

Mileage allowed county commissioners of Lake County with valuation below \$3,000,000 is governed by this act. Op. Atty. Gen., Feb. 15, 1933.

This section supersedes §822-1, to extent that members of county board are entitled to 7c mileage when they use their own cars, and Laws 1933, c. 13, further reduces it to 5c per mile. Op. Atty. Gen., Feb. 23, 1933.

This section does not affect §657. Op. Atty. Gen., Feb. 25, 1933.

Laws 1933, c. 13, is not applicable to mileage of members of county board whose salaries are determined by general statutes, §656. Op. Atty. Gen., Mar. 4, 1933.

This act does not prevent allowance of 1c per mile on each additional passenger, not exceeding total of 10c per mile. Op. Atty. Gen., Mar. 10, 1933.

Court reporter is entitled to charge 5c per mile for use of automobile, but not for week-end trips home. Op. Atty. Gen., May 2, 1933.

Sworn monthly statements by county commissioners presenting bills for mileage on a monthly basis are sufficient. Op. Atty. Gen., May 20, 1933.

Laws 1927, c. 220, does not place Hennepin County in different class than other counties as far as mileage allowance is concerned. Op. Atty. Gen., May 22, 1933.

County commissioner must itemize monthly mileage statement. Id.

Sheriff may not receive mileage for use of automobile in transporting other county officials in the performance by them of their official duties. Op. Atty. Gen., May 24, 1933.

State, and not county, pays mileage fee to sheriff for transportation of prisoners to state institution. Id.

This act has no application to rights of a sheriff under old law employing taxi or automobile livery of third person. Op. Atty. Gen., May 26, 1933.

Mileage of constable in transporting a prisoner to county jail is not affected by this section, as amended by Laws 1933, c. 13. Op. Atty. Gen., Sept. 22, 1933.

Sheriff is not entitled to compensation for mileage but to a reimbursement in proceedings to collect delinquent motor vehicle taxes where no collections are made. Op. Atty. Gen., Sept. 29, 1933.

Fees for transporting convict prisoner to jail are not affected by this act as amended by Laws 1933, c. 13. Op. Atty. Gen., Oct. 2, 1933.

If superintendent of schools hires a livery, she is entitled to be reimbursed by county for amount actually paid, provided it is usual and customary charge for such services. Op. Atty. Gen., Nov. 1, 1933.

Under this section, as amended by Laws 1933, c. 13, sheriff is not entitled to reimbursement for damages to his own automobile. Op. Atty. Gen., Dec. 11, 1933.

Where sheriff uses his own car in serving warrants in proceedings to enforce payment to delinquent motor vehicle taxes, he is entitled to reimbursement at rate of 5c per mile, though no collections are made. Op. Atty. Gen., Dec. 26, 1933.

Flat daily or monthly allowance to state employees for use of privately owned automobile on state business is prohibited. Op. Atty. Gen., Feb. 21, 1934.

This act must be construed as amending Laws 1925, c. 143, relating to allowances to members of county boards of certain counties. Op. Atty. Gen., Mar. 27, 1934.

County attorney may not use his automobile in connection with his duties as county attorney and collect mileage therefor, notwithstanding that he is required to transport other officers and witnesses. Op. Atty. Gen. (121c-4), Aug. 1, 1934.

Five cents per mile may be used as a reasonable basis for allowance for automobile expense to person taking patient to Minnesota general hospital under §4580. Op. Atty. Gen. (107b-8), Nov. 23, 1934.

County highway engineer may not charge in excess of 5c per mile for use of his automobile in connection with his official duties. Op. Atty. Gen. (104a-8), Nov. 26, 1934.

Laws 1933, c. 96, §4, should not be construed as repealing Laws 1917, c. 312, as amended by Laws 1933, c. 24, and sheriff is entitled to compensation for use of his automobile in addition to his salary, limited to \$.05 per mile by Laws 1933, c. 13. Op. Atty. Gen. (390a-12), Dec. 28, 1934.

This section does not affect mileage under §657 and 2051. Op. Atty. Gen. (104a-8), Mar. 8, 1935.

An officer or employe transporting another state officer or employe may receive compensation for the additional service in transporting the other person. Op. Atty. Gen. (359a-14), May 4, 1935.

This section governs allowance for use of automobile where specific statute does not fix rate, and governs maximum which may be allowed sheriff under §920-3. Op. Atty. Gen. (390a-11), May 29, 1935.

Laws 1935, c. 225, does not affect mileage under §6996. Op. Atty. Gen. (847a-5), July 17, 1935.

Mileage which coroner is entitled to charge for necessary travel is governed by §6995 and not this section, and this applies to deputies. Op. Atty. Gen. (103a), May 8, 1935.

Village of Crystal may not reimburse officer or employee for expenses incurred by him in use of his own automobile. Op. Atty. Gen. (359a-14), Dec. 22, 1936.

County commissioner in carrying out duties under §2139-23 is entitled to mileage under §657 and not under §254-47. Op. Atty. Gen. (124j), Jan. 19, 1937.

Members of county welfare board may not be reimbursed more than five cents per mile for use of their cars. Op. Atty. Gen. (104a-8), Oct. 13, 1937.

Sheriff may not charge auto mileage while riding with truck driver employed to haul goods and furniture of poor persons to their place of legal settlement. Op. Atty. Gen. (390a-11), March 9, 1939.

County board may determine in exercise of its judgment and discretion as to whether amount allowed sheriff should be for full maximum or a less amount. Op. Atty. Gen. (390a-11), March 15, 1939.

**254-48. Construction.**—This act shall be construed as amending all existing laws authorizing such allowances or reimbursements by imposing the maximum limit above set forth, and shall not be construed as permitting the payment of such allowance or the making of such reimbursement to any officer or employee where it is not now permitted or hereafter authorized by law, or by authority of the governing body of any municipality above named or by any commission or board of any county. (Act Apr. 24, 1931, c. 331, §2; Feb. 6, 1933, c. 13.)

This act as amended by Laws 1933, c. 13, does not affect mileage provisions in §§657 and 2051. Op. Atty. Gen., May 16, 1933.

A town supervisor has no legal right to charge township for use of his automobile in official business or for his personal expenses of any kind in transacting the business of the town. Op. Atty. Gen. (442a-11), June 27, 1934.

**254-49. Certain persons ineligible to appointment to office.**—Whenever a vacancy shall occur in any elective county, municipal or school district office, which vacancy is filled by appointment, any person who has the power of appointment, either individually or acting on any Commission or Board shall be ineligible for appointment to fill such vacancy, whether or not he resigns from his office, by reason of which he has said power of appointment, before said appointment is made. (Act Apr. 14, 1939, c. 249, §1.)

Sec. 2 provides that act shall take effect from its passage.

Member of village council though eminently qualified for position may not be appointed recorder. Op. Atty. Gen. (470i), June 6, 1939.

#### STATE CIVIL SERVICE

**254-51. Civil Service Board created—Members—Terms—Qualifications—Removal—Vacancies—Oath—Office—Meetings—Secretary—Compensation and expenses.**—The civil service board of the state of Minnesota is hereby created and established. It shall consist of three members, who shall be appointed by the governor with the consent of the senate without regard to party affiliation. The governor shall appoint the first members of the board within 30 days after the passage of this act. No member of the board shall hold any other public office or public employment whatsoever, the office of notary public or a military office excepted, and no person shall be appointed as a member of the board who has held a paid position in a political party within the two years immediately preceding his appointment. In appointing the first three members of the board the governor shall designate one member for a term expiring February 1, 1941, a second member for a term expiring February 1, 1943, and a third member for a term expiring February 1, 1945. The terms of all subsequent members of the board shall be six years and until their successors are appointed and qualified. The governor may remove a member of the board only upon written charges after said member has been given a copy of the charges against him and an opportunity to be heard publicly on such charges before

the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state. Vacancies in the membership of the board shall be filled by the governor, with the consent of the senate. The term of a member appointed to fill a vacancy shall be for the remainder of the unexpired term of the member he is appointed to succeed, and until his successor is appointed and qualified. Each member shall take an oath of office before entering upon the duties of office. The chairman of the board shall be chosen by the members of the board from among their own number under such rules as they shall make. The chairman shall have the powers of a presiding officer.

The civil service board shall maintain its principal office in such space as shall be provided for it by the proper state officials and shall maintain its records at said principal office, and shall hold its regular meetings there, but special meetings may be held in other cities in the state when in the discretion of the chairman it is necessary to meet in some other city than the capitol city of the state in the performance of the duties of the board. Meetings of the board shall be open to the public and no meetings or hearings of the board shall be held unless at least two members of the board are present. The director of the state civil service shall act as the secretary of the board. The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection, subject to such rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the civil service board, to assign suitable office space for executing the duties charged to it and to the director of the state civil service.

Each member of the board shall be paid \$15.00 per day for each day actually devoted to duties as a member of the board, but in no case shall any member be paid more than \$450.00 in any one year; provided, that this limitation shall not apply to payments on account of expenses; and provided further, that this limitation shall not apply during the first two years of the board's service. Members of the board shall be paid for expenses in travel to and from meetings and for necessary expenses incurred during meetings of the board. (Act Apr. 22, 1939, c. 441, §3.)

**Editorial note.**—The title of the Act of Apr. 22, 1939, attempts to enumerate amendments and repeals. The body of the act adds §53-41a to the 1938 Supplement to Mason's Minnesota Statutes, but such amendment is not mentioned in the title.

**254-52. Director of State Civil Service—Appointment, qualifications, examination—Compensation and expenses—Removal.**—The office of director of the state civil service is hereby created and established. The director of the state civil service shall be appointed by the civil service board on the basis of merit and fitness after an open competitive examination, open to qualified persons without regard to residence and without regard to the provisions of section 31 of this act [§257-79] or the provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, sections 4368, 4369, 4369-1, and 4369-2. Within 30 days after the first members of the civil service board have been appointed and qualified, and thereafter whenever a vacancy exists in the office of the director of the state civil service, the civil service board shall appoint an examining committee of three persons to examine the qualifications of all persons applying for appointments to the office of director of the state civil service. At least two members of the examining committee shall be public personnel administrators or public personnel specialists of recognized standing, at least one of whom shall be a non-resident of the state of Minnesota. As soon as practicable after its appointment, the examining committee shall examine applicants for the position of director of the state civil service and shall certify to the civil service board the names of the three persons rated

highest in the competitive tests and found by the committee to possess the necessary qualifications for the office of director of the state civil service. The civil service board shall then appoint one of the persons so certified to the office of director of the state civil service. No person who has not been examined and certified by an examining committee as herein provided for shall be appointed to the office of director of the state civil service. The civil service board shall fix the compensation and shall authorize the payment of expenses of members of the examining committee provided for in this section.

The director of the state civil service shall be in the classified service and shall not be removed by the civil service board except under written charges and after a public hearing by the board. (Act Apr. 22, 1939, c. 441, §4.)

Commissioner of administration is in charge of personnel until a director of civil service has been appointed and has made available list of eligibles for appointment. Op. Atty. Gen. (644), June 13, 1939.

**254-53. Director to be administrative and executive head—Adviser to board—Duties.**—(1) The director of the state civil service shall be the executive and administrative head of the state department of civil service and shall supervise and control all examinations and the department. He shall act as the board's adviser on all matters pertaining to the civil service of this state.

(2) It shall be the duty of the director and he shall have power:

- a. to attend all meetings of the board;
- b. to prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this act. Such rules shall provide, among other things, for current records of efficiency, and standards of performance for all officers and employees subject to the provisions of this act; the manner of completing appointments and promotions; rejection of eligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment;
- c. to appoint temporary and permanent examiners, including a chief examiner, clerks, stenographers, and such other employees and officers as are necessary to carry out the provisions of this act. Such employees and officers shall be chosen in accordance with and shall be subject to the provisions of this act;
- d. to keep in the office of the department of civil service an official roster of the state civil service showing the employment history of each and every person who has been appointed to, employed, promoted, reduced or reinstated in any position in such service. This roster shall show in connection with each name the date of appointment, employment, promotion, reduction, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, sick or annual leaves, and separations from the service. The director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with said roster;
- e. to prepare, in accordance with the provisions of this act and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
- f. to make certifications for appointment within the classified service, in accordance with the provisions of this act;
- g. to make investigations concerning all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed thereunder;

h. to make a report and submit the same to the civil service board not later than October first of each year;

i. to discharge such other duties as are imposed upon him by this act. (Act Apr. 22, 1939, c. 441, §5.)

**254-54. Duties and powers of civil service board.**—It shall be the duty of the civil service board and it shall have power:

a. to approve, modify, reject, or approve as modified, rules and regulations and amendments thereto prepared and recommended by the director for carrying out the purposes of this act. Such rules and regulations and any amendments thereto shall not be approved by the board until after a public hearing by the board, of which two weeks' published notice shall have been given that a hearing at a specified place and time is to be held upon the proposed rules and regulations, and that any citizen, officer or employee of the state of Minnesota may attend and participate in such hearing. Copies of all rules and regulations shall be sent to all state appointing officers, and printed copies of such rules and regulations and amendments thereto shall be prepared for public distribution;

b. after public hearing, to approve, modify, reject, or approve as modified, plans for the classification of positions in the state civil service prepared and recommended by the director of the state civil service;

c. after public hearing, to approve, modify, reject, or approve as modified, compensation schedules for positions in the state civil service prepared and recommended by the director for submission to the commission of administration and finance;

d. to make investigations either at the discretion of the governor, or upon petition of a citizen for just cause, or of its own motion, concerning the enforcement and effect of this act;

e. to prepare and transmit to the governor not later than November 15 of each year a report of the department of civil service;

f. to conduct hearings and pass upon complaints by or against any officer or employee in the classified service for the purpose of demotion, suspension, or removal of such officer or employee, in accordance with the provisions of this act;

g. to hear and pass upon such other matters as the director of the state civil service may from time to time bring before the board for determination;

h. to discharge such other duties as are imposed upon it by this act. (Act Apr. 22, 1939, c. 441, §6.)

**254-55. Board or director may issue subpoenas—Contempt—Examine witnesses—Witness fees—Rules of evidence.**—(1) The civil service board or the director of the civil service when authorized by a majority vote of the board may issue subpoenas to compel the attendance at such place as may be designated in this state of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this act; or may take depositions of witnesses in the manner provided by Mason's Minnesota Statutes of 1927, sections 9820 to 9838 inclusive. Subpoenas shall also be issued at the request of the parties to the proceedings other than the board and the director. The board or any member thereof, or the director when authorized by the board, may administer oaths and take testimony. The board or the director may examine such public records as they require in relation to any matter which they have authority to investigate. All officers and other persons shall attend and testify when required to do so by the board, or by the director when authorized by the board.

(2) In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county, on application of any one of the members of the board, or of

the director when authorized by the board, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(3) Each person not in the classified or unclassified services who appears before the board or the director by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid by the state upon presentation of proper vouchers. Witnesses subpoenaed at the request of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of such witnesses was relevant and material to the matter investigated.

(4) The board and the director, in conducting hearings and investigations in accordance with the provisions of this act, shall not be bound by the technical rules of evidence. (Act Apr. 22, 1939, c. 441, §7.)

**254-50. Salaries and compensation of director and employees.**—The salaries of the members of the staff of the state department of civil service shall be fixed in accordance with the salary schedules established as authorized by this act; provided, that, pending the establishment and adoption of such compensation schedules, their salaries shall be fixed by the civil service board, subject, however, to the approval of the department of administration and finance. The salary of the director shall be not less than \$5,000 nor more than \$7,000 per year, payable semi-monthly. (Act Apr. 22, 1939, c. 441, §8.)

**254-57. Classified and unclassified service.**—The civil service of the state of Minnesota is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

a. chosen by election or appointed to fill an elective office;

b. heads of departments required by law to be appointed by the governor or other elective officers and the executive or administrative heads of departments, divisions and institutions specifically established by law, except that with respect to state institutions, the provisions of Mason's Minnesota Statutes of 1927, Section 4405, are hereby continued in effect;

c. except as herein otherwise enlarged, one private secretary to each of the elective officers of this state, and in addition thereto, one deputy, clerk or employee to the secretary of state, state auditor and state treasurer;

d. all deputy registrars of motor vehicles;

e. one executive secretary and five other confidential employees in the office of the governor, and one confidential employee for the governor in the office of the adjutant general;

f. officers and employees of the senate and house of representatives of the legislature;

g. teachers, research assistants, student employees on less than half-time pay basis, presidents, deans, and administrative officers in the teachers' colleges; but this subdivision shall not be construed to include the custodial, clerical, or maintenance employees, or any administrative officers, or clerical workers performing duties in connection with the business administration of such institutions;

h. officers and enlisted men in the national guard and the naval militia;

i. election officers;

j. persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

k. persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or con-

duct a special inquiry, investigation, examination or installation;

l. deputy attorneys general, assistant attorneys general, legal assistants, examiners, three confidential employees, and special counsel to state departments appointed by the attorney general or employed with his authorization;

m. all courts and all employees thereof, referees, receivers, jurors and notaries public, except referees and adjusters employed by the industrial commission;

n. patient and inmate help in state charitable, penal and correctional institutions;

o. Regents of the University of Minnesota and the employees and persons under the jurisdiction of the Regents of the University of Minnesota;

p. state highway patrolmen now operating under the provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, sections 2554 1/2, 2554 1/2 a, 2554 1/2 b, 2554 1/2 c, 2554 1/2 d and 2554 1/2 e; providing, however, that with respect to the method of selection and appointment only, all state highway patrolmen who shall be appointed subsequent to the effective date of this act shall be selected and appointed in accordance with the provisions hereof relating to the classified service, but in all other respects the provisions of this act shall not apply to state highway patrolmen.

(2) The classified service comprises all positions now existing or hereafter created and not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examination which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, reduced or discharged as an officer, clerk, employee, or laborer in the classified service in any manner or by any means other than those prescribed in this act and the rules adopted in accordance therewith.

(3) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of this act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate registers of eligibles maintained by the department of civil service. (Act Apr. 22, 1939, c. 441, §9.)

An employee may be in the classified service, though he is a notary public and incidentally takes acknowledgments of expense accounts of department. Op. Atty. Gen. (644), May 1, 1939.

District boiler inspectors are within the classified civil service. Op. Atty. Gen. (644), May 23, 1939.

Employees of society for prevention of cruelty are subject to civil service act. Op. Atty. Gen. (644), June 3, 1939.

Both 12 month and 10 month "industrial teachers" at state school for the feebleminded are state employees within the act. Op. Atty. Gen. (644), July 10, 1939.

Employees of State Athletic Commission are subject to state civil service act. Op. Atty. Gen. (596a), July 13, 1939.

In the Department of Labor and Industry, heads of divisions of workmen's compensation, boiler inspection, accident prevention, statistics, women and children, and voluntary apprenticeship are in the unclassified service, but division of painting standards, and steamfitting standards are in a different category, and secretaries of the boards are in the classified service. Op. Atty. Gen. (644) July 19, 1939.

Director of tourist bureau in the Department of Conservation is head of a division and on unclassified list. Op. Atty. Gen. (644), July 25, 1939.

Members of Soldiers' Home Board are in unclassified service, but employees of board are in classified service. Op. Atty. Gen. (644), July 26, 1939.

Employees of the Minnesota Live Stock Breeders' Association, the Minnesota Crop Improvement Association, and similar organizations are not state employees subject to act. Op. Atty. Gen. (644), August 2, 1939.

**254-58. Existing positions.**—Persons with five years service to hold over—Persons with five years service or who have taken a civil service examination—Classification—Probationary period—"Employed by the state."—(1) All persons holding offices or employ-

ments in the classified service on the effective date of this act who have been employed by the state, which employment need not be continuous, for a total of five years or more prior to the effective date of this act; and persons holding offices or employments in the Minnesota State Employment Service (a division of the Industrial Commission, not however including the employees of the Unemployment Compensation Division) who have taken and passed a civil service examination conducted by the United States Employment Service, and who are employed by the state on the effective date of this act, shall automatically receive a civil service status without examination and shall be subject to and protected by the provisions of this act, but shall first be subject to the following: (a) the general classification directed to be made by section 12 of this act [§254-60]; and, (b) the six months' probationary period provided by section 21 of this act [§254-69]. The probationary period in the case of persons holding offices or employments covered by this section shall begin to run on the effective date of this act. The words "employed by the state" as used in this subsection shall include persons employed by joint federal and state agencies administering state and federal relief funds

(2) Except as in this act otherwise specifically provided, all persons holding offices or employments in the classified service on August 1, 1939, exclusive of those persons covered by subsection (1) hereof, shall be given a qualifying examination as hereinafter provided. The director of civil service, subject to the rules and regulations of the board, shall within two years from and after August 1, 1939, prepare and give once to all such incumbents of positions in the classified service a qualifying examination which shall be non-competitive, practical and involve only the duties of the position they occupied on August 1, 1939, or the position they occupy on the date said examination is given, whichever examination the officer or employee may elect to take.

If such aforementioned incumbents are found by such qualifying examination to have such ability and capacity as will enable them to perform the duties of the position for which they were examined in a reasonably efficient manner, they shall be given a civil service status subject to the provisions of section 21 hereof. If, however, any of the aforementioned incumbents who are required by this act to take a qualifying examination shall fail to pass the same, they shall be removed from their positions at the expiration of three months following receipt of notice of failure to pass such examination. All persons who shall willfully fail or refuse to take the examination when offered, without reasonable excuse, shall be removed from their positions immediately.

(3) *Laying-off, etc. prior to Aug. 1, 1939—Incumbents who have passed merit examination.*—Except as in this act otherwise specifically provided, until August 1, 1939, all persons holding offices or employments in the classified service, may be laid off, suspended, transferred, discharged, promoted, reduced, or discharged and reinstated as temporary employees, at the will and pleasure of the authority employing them, subject, however, to such laws as are not expressly repealed by this act.

Except as in this act otherwise specifically provided, no person holding office or employment in the classified service by reason of any merit examination heretofore held pursuant to any law of this state or the regulations or order of any department thereof, shall be deemed to have acquired a civil service status by reason thereof

(4) *Same—Completion of qualifying examination.*—No person holding an office or employment in the classified service on August 1, 1939, who is required by this act to take a qualifying examination, shall be laid off, suspended, discharged or reduced in pay or position, except in accordance with the provisions of this act applicable to members of the classified serv-

ice having a civil service status, until they have completed such qualifying examination and shall have been notified of the result thereof, or unless they shall refuse to take such qualifying examination.

(5) *Seniority rights in laying off.*—In the event of necessary reductions in employment in and class or position, employees who have not acquired a permanent classified civil service status shall be laid off in accordance with their seniority within the department where they are employed. (Act Apr. 22, 1939, c. 441, §10.)

(1). Giving two weeks vacation salary to one upon termination of his employment did not have effect of continuing service for the additional two weeks after discharge. Op. Atty. Gen. (644), June 26, 1939.

(2). Employees with less than 5 years service who were on leave of absence August 1, 1939, upon their return to work are entitled to take qualifying examinations if position which they held upon taking their leave is still in existence and has not been abolished. Op. Atty. Gen. (644), July 24, 1939.

**254-59. Temporary employment in absence of available eligibles.**—After August 1, 1939, and prior to the time that lists of eligibles are available, appointments to offices and employments in the classified service may be made in accordance with existing laws and without regard to the provisions of this act. Persons so appointed shall not be entitled to any of the privileges set forth in this act, but they shall be permitted to apply for and take any competitive examination for which they may be eligible. Such employees may continue in such employment, notwithstanding any contrary provisions of this act, until 60 days after the director shall have certified that lists of eligibles are available for such office or employment, whereupon the employment of such person shall automatically terminate and such office or employment shall be filled from such lists of eligibles as provided in this act. (Act Apr. 20, 1939, c. 441, §11.)

**254-60. Classification and grading of employees—Wage and salary schedules.**—(1) *Classification—Use—Changes.*—The director of the state civil service shall, as soon as practicable, and after consultation with appointing authorities and principal supervisory officials, classify all offices, employments, and positions in the classified service according to the duties and responsibilities of each position in accordance with the appropriate line of promotion. This duty to classify shall extend to all offices, employments, and positions held by persons who may become members of the classified service under this act as provided by section 10 as well as to those offices, employments and positions held by other persons. Titles shall be established for each class of employment for use in examining and certifying names of persons for appointment under this act, and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up, minimum qualifications required for satisfactory performance of the duties of each grade and class formulated, and, so far as practicable, the lines of promotion from grade to grade or class to class shall be indicated. The titles in this classification as defined by the specifications of duties and qualifications shall be used for (a) original appointments; (b) promotions; (c) pay-rolls; (d) and all other records affecting the status of personnel. The classifications, when approved by the civil service board after public hearing, shall take effect immediately, shall be sent to the commission of administration and finance and shall be used by it in the preparation of the next following and subsequent state budgets. The director of the civil service may make changes in the classification whenever he deems it necessary for the efficiency of the service; and such changes, when approved by the civil service board after public hearing, shall take effect immediately, shall be sent to the commission of administration and finance and shall be used by it in the preparation of the next following and subsequent state budgets.

(2) **Salary or wage schedule—Legislative change of.**—The director of the state civil service shall, as soon as practicable after the adoption of the classification plan, prepare a schedule of salary or wage rates and ranges for each class, grade or group of positions in the classification. Such salary and wage schedules when approved by the civil service board after public hearing shall be submitted to the commission of administration and finance, who may approve, or reject, such schedules. When approved by the commission of administration and finance, they shall be used by that commission in connection with all payrolls and accounting records and with all budget estimates for all departments or agencies of the state government. The salary schedules for each class, grade, and group shall be submitted with its recommendations, to the legislature at the opening of the next legislative session. Unless changed by the legislature the salary and wage schedules so prepared by the director of the civil service and approved by the civil service board and the commission of administration and finance shall become the current official compensation rates applicable to the various classes and grades as enumerated. Nothing in this section shall prevent the legislature from increasing or reducing the salary or wage rates of all positions in an entire grade or group uniformly but it shall not increase the rate of pay of any grade or group beyond the rate in the next higher grade or group, nor reduce the pay of any grade or group below the rate of pay fixed for the next lower grade or group in the same service.

(3) **Allocation of employees to classes.**—The director of the civil service shall allocate each office, position or employment in the classified civil service to one of the grades and classes within the classification, subject to an appeal to the board by an employee immediately affected at any time within 30 days following notice to him of his allocation, and thereafter all salary rates, schedules or compensation policies shall apply uniformly to all positions within each grade, in accordance with rules and regulations established by the civil service board.

(4) **Duration of classification and schedule.**—The classification, and salary or wage schedules applying thereto, existing at the time this act becomes effective shall continue in effect until changed in accordance with the provisions of this act. (Act Apr. 22, 1939, c. 441, §12.)

(2).

Op. Atty. Gen. (644), July 18, 1930; note under §45.

**254-61. Competitive examinations—Persons eligible—Place of holding.**—(1) All competitive examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to efficiently discharge the duties of the office or employment sought by them.

(2) The competitive examinations shall, after published notice, be open to all applicants who are citizens of the United States, who have been residents of this state for two years immediately preceding the date of examination, and who meet with reasonable standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other factors as may be held to relate to the ability of the candidates to perform with reasonable efficiency the duties of the position. No standards or requirements shall be fixed with reference to education or physical condition except such as relate directly to the duties of the office or employment to be filled. Persons under such physical disability as not to make them ineligible by reason thereof, shall be examined in such manner as will fairly test their ability to perform the duties of the position, notwithstanding such physical disability. The director may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require. Examinations shall be held at such times

and places as in the judgment of the director most nearly meet the convenience of applicants, practicability of administration and the needs of the service. For positions requiring professional, technical, or unusual qualifications, the director may, subject to the approval of the board, open competitive examinations to residents of other states who are citizens of the United States and who are otherwise qualified.

(3) The director may also require candidates to undergo an examination at designated places in the state, in cases where oral tests or tests for manual skill or the use of instruments in construction work may be necessary to determine the fitness of such candidates. (Act Apr. 22, 1939, c. 441, §13.)

**254-62. Same—Powers of director as to examinations—Exclusion of disqualified persons—Statement of reasons—Persons required to give bond.**—(1) The director may refuse to examine an applicant, or after examination may refuse to certify an eligible, who is found to lack any of the preliminary requirements established for the examination for the position or employment for which he applies; or who is physically so disabled as to be rendered unfit for the proper performance of the duties of the position to which he seeks appointment; or who is addicted to habit-forming drugs or is an habitual user of intoxicating liquors to excess; or who has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact; or who directly or indirectly shall give, render or pay, or promise to give, render or pay, any money, service, or other valuable thing to any person for, or on account of, or in connection with, his test, appointment, or proposed appointment; or who practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment; or who refuses to furnish testimony as required in section 7.

(2) Whenever the director refuses to examine an applicant, or after an examination refuses to certify an eligible, as provided in this section, then the director, upon request of the person so rejected, shall furnish to him a statement of the reasons for such refusal to examine or refusal to certify, as the case may be. In the case of any such refusal an appeal may be taken to the board in accordance with the rules to be adopted in the manner hereinbefore provided.

(3) When any position requires the appointee to furnish a bond, such requirements shall be included in the announcement of the examination for said position. (Act Apr. 22, 1939, c. 441, §14.)

**254-63. Discrimination forbidden.**—No discrimination shall be exercised, threatened or promised, by any person in the civil service against or in favor of any applicant, eligible, or employee in the civil service because of his political or religious opinions or affiliations. (Act Apr. 22, 1939, c. 441, §15.)

**254-64. Oath of office.**—Every officer or employee of the state of Minnesota and every person making application for examination under this act shall take and subscribe an oath or affirmation in writing to the effect that every such person will honestly and faithfully protect and preserve the property and money of the state of Minnesota and will abide by, uphold and defend the constitution of the United States of America and the state of Minnesota, and except as provided in said constitutions they will not take part in any movement to alter or change our form of government. (Act Apr. 22, 1939, c. 441, §16.)

**254-65. Appointments to be made from certified lists.**—(1) **From certified lists.**—Appointments, promotions and reinstatements to all positions in the classified service under the provisions of this act, and

the rules made in pursuance thereof, shall be made from among those certified to the appointing officer.

(2) **Duration of eligibility.**—The term of eligibility of applicants on original entrance and reinstatement lists and on promotion lists shall be one year, but the term of any list may be extended by the director. In no case, however, may eligibility be extended for a period of more than three years.

(3) **No available list—Appointment or assignment from inappropriate list.**—Appointments shall be made from the appropriate eligible list, but if no such list exists then the director may certify from such other list as he deems the next most nearly appropriate. A new and separate list shall be created for a stated position only when there is no satisfactory list. The director shall have authority to establish separate eligible lists applicable to various localities. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, nor assigned to perform the duties of, any position in the classified service, unless he has previously qualified therefor under the provisions of this act. (Act Apr. 22, 1939, c. 441, §17.)

**254-66. Same.**—(1) **Notice of new positions and vacancies—Certification of eligibles.**—Appointing officers shall give written notice to the civil service director of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service and, within a reasonable time after the receipt of such notice, the director shall certify from the list of eligibles, appropriate for the grade and class in which the position is classified, the three names at the head thereof, except as provided in section 23 of this act.

(2) **Probationary appointments—Noncompetitive positions.**—The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates, whose name is certified in the manner above set forth, to fill such vacancy, except as provided in section 23 of this act [§254-71]. The provisions of this section shall not apply when the office or employment is among those listed in section 20 [§254-68] for which competitive examinations are not required.

(3) **Standards of performance—Service ratings—Public inspection.**—As soon as practical after the passage of this act and after consultation with appointing authorities and other supervising officials, the director shall establish standards of performance for each class of position and shall maintain records of efficiency, character, and conduct by a system of service ratings based upon such standards. The board shall establish and enforce rules and regulations in respect to such service ratings and prescribe the extent to which such service ratings shall be considered in determining the advisability of transfers, the promotion of an employee to a higher class, the question of reduction or dismissal of any employee, increases and decreases in salary of an employee within the salary range established under this act, in all other decisions relating to the status of employees. The board may further by rule prescribe the extent to which such ratings and the reports upon which they are based shall be open to inspection by the public and by the affected employees. (Act Apr. 22, 1939, c. 441, §18.)

**254-67. Same.**—(1) **Filling vacancies—Promotions.**—Vacancies in positions shall be filled so far as practicable, by promotion from among persons holding positions in the classified service and, subject to such exceptions as the board may provide, from the lower class or group within the particular classification, and in accordance with section 18 [§254-66] of this act and the rules of the board. Promotions shall be based upon merit and fitness to be ascertained by competitive examinations in which the employee's

efficiency, character, conduct and seniority shall all constitute a factor.

(2) **What constitutes promotion.**—For the purpose of this section an increase in the salary or other compensation of any person holding an office or position subject to the provisions of this act beyond the limit fixed for the grade in which such office or position is classified shall be deemed a promotion.

(3) **Status of dismissed promotional appointee—Competition for original appointment.**—Any promotional appointee, who is dismissed for cause other than misconduct or delinquency on his part from the position to which he has been promoted either during the probationary period, or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon registers of persons eligible for original appointments. (Act Apr. 22, 1939, c. 441, §19.)

**254-68. Positions filled without competition.**—Positions in the classified service may be filled without competition only as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify from any appropriate eligible list for the vacancy, the director may issue a provisional permit or certify a suitable person to fill such vacancy provisionally only until a selection and appointment can be made after competitive examination; but no person shall receive more than one provisional appointment nor serve more than three months in any calendar year as a provisional appointee.

(2) In case of an emergency, an appointment may be made without regard to the provisions of this act, but in no case shall continue longer than ten days, and in no case shall successive emergency appointments be made. This provision shall apply to both persons and positions. No person shall receive more than three emergency appointments in any one or different positions within one year.

(3) In case of a vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or expert character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the board upon recommendation of the director may suspend the requirements of competition in such case, but no suspension shall be general in its application to such position, and all such cases of suspension shall be reported in the annual report of the department with the reasons for the same.

(4) Where the services to be rendered by an appointee are for a temporary period not to exceed three months and a proper list of eligibles is not available, the director shall certify for such temporary service any person he deems qualified. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary period in case of subsequent appointment to a permanent position. Successive temporary appointments to the same positions shall not be made under this provision; provided, however, that during the period following the passage of this act and prior to the preparation of the appropriate eligibility lists a temporary appointment may be renewed for a period not to exceed a total of six months from the date of the first temporary appointment. No person shall receive more than one temporary appointment within one year. (Act Apr. 22, 1939, c. 441, §20.)

**254-69. Appointments for probationary period.—**

Except as in this act otherwise provided, all original appointments to and promotions within the classified service, and offices or employments within the classified service held by persons who become members of the classified service without examination pursuant to section 10 [§254-58] of this act or by qualifying examination pursuant to section 10 of this act, shall be for a probationary period of six months, but dismissals or demotions may be made at any time during such period, subject to the provisions of section 19, subsection (3) [§254-67(3)]. At the end of the probationary period the appointing officer shall notify the director in writing whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice the employee, if his service during the probationary period did not fall below such minimum standards as have been prescribed by the director of the civil service, shall be deemed to have a permanent classified civil service status; otherwise the employee is automatically separated from the service except as provided in section 19, subsection (3) [§254-67(3)]. (Act Apr. 22, 1939, c. 441, §21.)

**254-70. Transfers—Leaves of absence—Reinstatements.—**(1) Transfers in the classified service may be made from a position in one grade and class to a position in another grade and class when the duties and compensation are similar and when such action is specifically approved by the director of the civil service.

(2) Any person holding a permanent position in the classified service of this state may be granted a leave of absence on the grounds of sickness, disability or other good and sufficient reason; provided, however, that no leave shall exceed one year, except as provided in subsection (4) of this section.

(3) No leave of absence may be granted to an officer or employee holding a permanent position in the classified service to enable such person to take an appointive position in the state unclassified service.

(4) Any person who has held a position by permanent appointment in the classified service under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part or who has been granted a leave of absence under subsection (2) of this section, may be reinstated within one year from the date of such separation or within one year from the expiration of an approved leave of absence, to a position in the same or similar grade or class in the classified service, but such action shall be subject to the approval of the director of civil service. (Act Apr. 22, 1939, c. 441, §22.)

**254-71. Lay-offs—Seniority rights—Notice—Certification of reasons—Positions abolished—Seniority and preference rights of dismissed incumbent.—**(1) Whenever one or more employees in the classified service are laid off because of a shortage of funds or curtailment of service or for any other reason beyond their control, the order of layoff shall be determined according to rules established by the board which shall be based on seniority within the department, and the names of such employees shall be placed at the head of the appropriate registers.

(2) In every case of layoff of a permanent officer or employee, the appointing authority shall at least 15 days before the effective date thereof give written notice to the employee and the director of civil service, and may certify to the director the reasons therefor. In any case where an appointing authority refuses to certify, or fails to certify before the effective date thereof, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions concerning dismissals, as provided in this act.

(3) Whenever positions in the classified service are abolished by statute or by administrative action, the names of the incumbents of such positions, if they

are members of the classified service, shall be placed at the head of the appropriate register, according to seniority.

(4) Persons who have been separated from the classified service because of layoff or the abolition of positions shall be given preference over all other eligibles in filling vacancies in the same or similar positions within the department in which they were employed immediately prior to their separation from the service, and the director shall certify for each vacancy only the former officer or employee whose name stands first on the appropriate eligible register. (Act Apr. 22, 1939, c. 441, §23.)

**254-72. Not to be removed or suspended except for cause—Hearing—Time for—Reinstatement—Dismissal of provisional employees.—**(1) No permanent employee in the classified service under the provisions of this act or the rules made pursuant thereto shall be removed, discharged, suspended without pay for more than 30 days, or reduced in pay or position except for just cause, which shall not be religious or political. In case of any such disciplinary action as enumerated above in this section, the employee shall, before such action is taken, be furnished with a statement in writing specifically setting forth the reasons for such disciplinary action. A copy of such statement shall be filed with the director of civil service prior to the effective date thereof.

Such employee, upon written request to the civil service board made within 30 days thereafter, may demand a hearing to determine the reasonableness of such action and the board shall grant the employee a hearing within 45 days after receipt of such request. In the event such hearing is not held within the 45-day period herein specified, following receipt of request for such hearing, then the employee shall be forthwith reinstated in his position with full pay for lost time, but this shall not jeopardize the right of the board to finally determine the matter at a later date. After hearing and considering the evidence for and against such disciplinary action, the board shall approve or disapprove the action. In case of approval the disciplinary action shall be deemed final as ordered. In case of disapproval the board shall reinstate the employee under such conditions as it deems proper, and may order full pay for lost time.

If the board finds that the disciplinary action was for religious or political reasons, then the employee shall forthwith be reinstated in his position and be reimbursed for any loss of pay occasioned by such disciplinary action.

(2) Provisional employees as provided for in subsection (1), emergency employees as defined in subsection (2), and temporary employees as defined in subsection (4) of section 20 [254-68] may be dismissed at any time at the discretion of the appointing officer. (Added Apr. 22, 1939, c. 441, §24.)

Veterans coming within provisions of §254-86 can only be dismissed for just cause and by following procedure laid down in this section. Op. Atty. Gen. (644), May 25, 1939.

**254-73. Appointing officer shall notify director of appointments, promotions, reductions, etc.—**Each appointing officer shall report to the director forthwith in writing upon any appointment or employment in the service, the name of the appointee, or employee, the title and character of his office or employment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and shall report from time to time upon the date of the official action in, or knowledge of, any separation of a person from the service or any promotion, reduction, suspension, transfer, reinstatement or other change therein, the efficiency of his subordinates and employees, and other information, in such manner as may be prescribed by the director and the rules and regulations adopted by the board. (Act Apr. 22, 1939, c. 441, §25.)

**254-74. Unauthorized expenditures—Directors shall certify payrolls.—(1) Certified payrolls.**—Neither the state auditor nor other fiscal officer of this state shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the classified or unclassified service of the state, unless an estimate payroll or account for such salary or compensation containing the name of every person to be paid shall bear the certificate of the director of the civil service that the persons named in such estimate, payroll or account have been appointed, employed, reinstated or promoted and are performing service as required by law and the rules established hereunder and that the salary or compensation is within the salary or wage schedule fixed pursuant to law.

**(2) Improper payments recovered by action against officer or his sureties.**—Any sum wilfully paid contrary to the provisions of this section may be recovered from any officer or officers making such appointments in contravention of the provisions of law or of the rules made in pursuance of law, or from any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of same, or from the sureties on the official bond of any said officers, in an action in the district court of any county within the state, maintained by the director of the civil service or any member of the civil service board. All moneys recovered in any action brought under this section when collected shall be paid into the state treasury.

**(3) Recovery by person against employing officer.**—Any person employed or appointed contrary to the provisions of this act and the rules thereunder whose payroll or account is refused certification shall have action against such appointing officer employing or appointing or attempting to employ or appoint him for the amount due by reason of such employment or purported employment and the costs of such action. No appointing authority, during the time of his or their official service or thereafter shall be reimbursed by the state for any sum so paid or recovered in any such action. (Added Apr. 22, 1939, c. 441, §26.)

**254-75. Officers and employees shall comply with law—Penalty—Vacation of office.**—All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this act and the rules prescribed thereunder. Any wilful violation of this act by officers, officials or employees of the state shall be deemed a misdemeanor, and shall be punished accordingly. Conviction of same shall render the public office or position held by such person vacant. (Act Apr. 22, 1939, c. 441, §27.)

**254-76. Violations and penalties—Vacation of office.**—Any civil service board member, director or examiner, or any other person,

(1) who wilfully or corruptly by himself or in cooperation with one or more persons, defeats, deceives, or obstructs any person with respect to his or her rights of examination or application according to this act or to any rules or regulations prescribed pursuant thereto, or

(2) who wilfully or corruptly falsely marks, grades, estimates or reports upon the examination or proper standing of any person examined, registered, certified, employed or promoted pursuant to the provisions of said sections, or aids in so doing, or who wilfully destroys any examination questions, answers or records thereon of any applicant for civil service within a period of one year after any examination has been completed, or

(3) who wilfully or corruptly makes or files any false representations concerning the persons examined, registered, certified, appointed, employed or promoted, or

(4) who wilfully or corruptly furnishes any person with any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, being appointed, employed or promoted, or

(5) who personates any other person, or permits or aids in any manner any other person to personate him or her in connection with any examination or registration, or application or request to be examined or registered, or

(6) who wilfully or corruptly shall appoint to a position in the classified service or dismisses, suspends, reduces in rank or pay any officer or employee from any position in the classified service otherwise than in compliance with and in conformity to the provisions of this act and the rules and regulations of the civil service board adopted pursuant thereto, or

(7) who wilfully or corruptly refuses or neglects otherwise to comply with or conform to the provisions of this act and the rules and regulations made pursuant thereto, or violates any of such provisions, shall be deemed guilty of a misdemeanor and shall be punished accordingly.

Any conviction under this section shall render the public office or position held by the person or persons so convicted vacant and such person or persons shall be ineligible to hold public office for a period of five years from the date of such conviction. (Act Apr. 22, 1939, c. 441, §28.)

**254-77. Political activities and executions—Resignation of candidates from classified service—Violations and penalties.**—No officer or employee holding a position in the classified service of this state shall, directly or indirectly, solicit, or receive, or be in any manner concerned in soliciting, or receiving, any assistance, assessment, or subscription, whether voluntary or involuntary, for any political purpose whatsoever, or for any political party or affiliate thereof. No officer or employee in the classified service shall be a delegate or alternate to any political convention. No officer, agent, clerk or employee of this state shall directly or indirectly use his authority or official influence to compel any officer, or employee in the classified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription or contribution, or to take part in any political activity. Any person who violates any provision of this section shall be guilty of a misdemeanor, and shall be punished accordingly, and if any officer or employee in the classified service is found guilty of violating any provision of this section, he is automatically separated from the service.

(2) Any officer or employee in the state classified service shall resign from the service upon filing as a candidate for public office. (Act Apr. 22, 1939, c. 441, §29.)

(2). Those holding elective public office at time of passage of act who are members of classified service may serve remainder of their unexpired terms of office, but may not file as candidates for public office unless they resign from classified service. Op. Atty. Gen. (644), June 29, 1939.

**254-78. All offices to furnish space for examinations.**—The officers having control of public buildings in political subdivisions of the state and school districts shall, upon request of the director of the civil service, furnish convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The director may request state or local officers or employees to aid in carrying out the provisions of this act, and it shall be the duty of such officers and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the director. (Act Apr. 22, 1939, c. 441, §30.)

**254-79. Veterans' preference.**—In all examinations under this act a veteran's preference shall be given

to soldiers, sailors, nurses, and marines honorably discharged from the army, navy or marine corps of the United States, who have served in the Civil War, Spanish American War, Philippine Insurrection, China Relief Expedition, or World War; who are citizens of the United States and have been residents of the state of Minnesota five years immediately preceding their application or who enlisted from the state of Minnesota. And the veteran thus preferred shall not be disqualified from holding any position in the classified service on account of his age or by reason of any physical disability provided such age or physical disability does not render him incompetent to perform the duties of the position.

Recognizing that training and experience in the services of the government and loyalty and sacrifice for the government are qualifications of merit which cannot be readily discovered by examination; there shall be added to the examination rating of a disabled veteran a credit of ten points, and if such augmented rating gives to such disabled veteran a passing grade and such disabled veteran is able to perform the duties of the position sought with reasonable efficiency, his name shall be placed at the head of the eligible list for such position.

There shall be added to the examination rating of all other veterans a credit of five points, and if such augmented rating gives to such veteran a passing grade and if such veteran is able to perform the duties of the position with reasonable efficiency, his name shall be placed on the list of eligibles with the names of other eligible persons. The name of a veteran with such augmented rating shall be entered ahead of a non-veteran when their ratings are the same.

Such preference is hereby extended to the widows of deceased veterans and to the spouse of a disabled veteran, who, because of such disability is unable to qualify.

The fact that an applicant has claimed a veteran's preference shall not be made known to the examiners and the preference credit shall be added to the examination rating by the director, and the records shall show the examination rating and the preference credit.

A disabled veteran is one who is rated as disabled by the United States Veterans' Administration, and which disability is existing at the time preference is claimed.

In the event of the rejection by the appointing officer of the person so preferred when certified for promotion or to fill a vacancy or a new position, the appointing officer shall forthwith file in writing with the director the reasons for such rejection and shall furnish to the rejected veteran a copy thereof. (Act Apr. 22, 1939, c. 441, §31.)

Rights of war veterans to secure and hold positions in classified service of state are now in no way affected by confidential nature of the work. Op. Atty. Gen. (644), August 14, 1939.

**254-80. State Civil Service to be available to municipalities—Interchange of services.**—(1) The services and facilities of the state civil service department and its staff shall be available upon request, subject to rules prescribed therefor by the board, to political subdivisions of the state. In making such service and facilities available, it shall be understood that requirements for the enforcement and administration of the provisions of this act shall be given precedence and that the political subdivisions shall reimburse the state for the reasonable cost of such services and facilities.

(2) The board may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The board may also join or subscribe to any association or service having as its purpose the interchange of information relating to the technique of personnel administration. (Act Apr. 22, 1939, c. 441, §32.)

**254-81. Director to co-operate in the conduct of employees training program—Leaves of absence—Apprenticeships or internships.**—The director of the civil service shall devise plans for and cooperate with appointing authorities and other supervisory officers in the conduct of employee training programs to the end that the quality of service rendered by persons in the state civil service may be continually improved. Provision may be made in the rules adopted by the civil service board to permit employees in the classified service to secure leaves of absence for the purpose of enrolling in courses of training for government service; and provision also may be made in said rules to permit qualified students to serve as internes or apprentices for a period not greater than one year in the several departments and agencies concerned. (Act Apr. 22, 1939, c. 441, §33.)

**254-82. Definitions.**—(1) The word "eligible" as used in this act, unless the context otherwise indicates, shall mean a person who is on an employment list and qualified for appointment, a promotion, or reinstatement under this act.

(2) The "effective date" of this act shall be the date that it is approved by the governor or the date it becomes effective without his approval.

(3) The words "all persons holding offices or employments in the classified service on the effective date of this act" as used in this act in addition to their ordinary meaning shall mean and include all persons who have been employed by the state, which employment need not be continuous, for a total of five years or more prior to the effective date of this act, and who are on leave of absence on the effective date of this act.

(4) The words "commission of administration and finance" as used in this act in addition to their ordinary meaning shall mean and include the commissioner of administration in the event that such commissioner shall be authorized and appointed pursuant to any law heretofore or hereafter enacted. (Act Apr. 22, 1939, c. 441, §34.)

**254-83. Citation of act.**—Sections 1 to 38 inclusive [§§53-1, 53-41a, 254-51 to 254-86] shall be known and may be cited as the state civil service act. (Act Apr. 22, 1939, c. 441, §35.)

**254-84. Inconsistent acts repealed.**—All acts or parts of acts which are inconsistent with the provisions of sections 1 to 38 inclusive of this act [§§53-1, 53-41a, 254-86] are hereby expressly repealed to the extent of such inconsistency. (Act Apr. 22, 1939, c. 441, §36.)

**254-85. Provisions severable.**—The provisions of this act shall be severable and, if any of the provisions shall be held to be invalid, the decision of the court respecting such provision or provisions shall not affect the validity of any other provisions which can be given effect without such invalid provisions. It is hereby declared to be the legislative intent that this act would have been adopted by the legislature had such invalid provisions not been included herein. (Act Apr. 22, 1939, c. 441, §37.)

Persons blanketed in by this section, may be removed only for cause upon written charges, and after a hearing. Op. Atty. Gen. (644), April 28, 1939.

**254-86. Laws superseded.**—The provisions of the 1938 Supplement to Mason's Minnesota Statutes of 1927, sections 4368, 4369, and 4369-1 are hereby superseded by section 31 [§254-79] of this act insofar as said sections 4368, 4369, and 4369-1, might be applicable to the state civil service as provided by this act; anything in the 1938 Supplement to Mason's Minnesota Statutes of 1927, section 4369-2, to the contrary notwithstanding; provided, however, that honorably discharged veterans of past wars and other persons enumerated in section 31 [254-79] hereof holding offices or employment within the classified service on the effective date of this act are hereby given a permanent classified civil service status

as of the effective date of this act, and shall thereafter be subject to and protected by the provisions of this act and shall not be subject to the probationary period provided for by section 21 hereof. (Act Apr. 22, 1939, c. 441, §38.)

Incumbent district boiler inspectors are entitled to benefit of this section. Op. Atty. Gen. (644), May 23, 1939.

Veterans coming within this section can only be dismissed for just cause and by following procedure laid down in §24. Op. Atty. Gen. (644), May 25, 1939.

Rights of war veterans to secure and hold positions in classified service of state are now in no way affected by confidential nature of the work. Op. Atty. Gen. (644), August 14, 1939.

**254-87. Laws to be continued in force.**—Notwithstanding the provisions of the state civil service act and the amendments to existing statutes made by this act, all existing salaries and compensation schedules, and all laws and regulations governing said salaries and compensation schedules, in force on the day previous to the effective date of this act, shall continue in force until the salary and wage schedules are approved by the commission of administration and finance as provided in the state civil service act. (Act Apr. 22, 1939, c. 441, §45.)

Salary rates, schedules, and classifications may be increased, reduced, or revised by authority prior to enactment of civil service law, until such time as salary rates and classifications are established in accordance with such act, but it must be noted that powers existing in commission of administration and finance in respect to salaries and personnel are now vested in commissioner of administration. Op. Atty. Gen. (644), July 18, 1939.

**DECISIONS  
RELATING TO OFFICERS AND EMPLOYEES  
IN GENERAL**

**1. In General.**

*Officials of WPA are required to determine fitness of applicants for assigned tasks.* Block v. S., (DC-Minn), 26FSupp105.

Fact that plaintiff was a needy person properly certified for assignment to WPA work did not alone entitle her to employment, but she must have been fitted to perform the assigned tasks. Id.

Liability of a public officer for nonfeasance attaches only when duty is ministerial and not mandatory. Cook v. T., 200M221, 274NW165. See Dun. Dig. 8001, 8002a.

Where officer performs duties imposed by law, he is entitled to compensation therefor fixed by law and no other, and fact that salary or compensation may be recognized as inadequate remuneration for services exacted and actually performed does not change the rule, and principle is same although his duties are greatly increased. Jerome v. B., 202M485, 279NW237. See Dun. Dig. 8008.

Two attorneys associated together in same office but not partners may respectively hold offices of county attorney and city attorney. Op. Atty. Gen., May 6, 1933.

Judge of probate may also act as secretary of production credit association, organized to refinance chattel mortgage loans. Op. Atty. Gen., Feb. 23, 1934.

**2. De facto officers.**

There can be no de facto officer unless there is a de jure office for him to fill, but where there is a legislative act or municipal ordinance in form creating an office and an officer is elected or appointed to such office, then, though legislative act or ordinance is unconstitutional or invalid, officer is an officer de facto until act or ordinance is declared unconstitutional or invalid. State v. City of Eveleth, 189M229, 249NW184. See Dun. Dig. 8014.

**3. Officials not to be interested in contracts.**

A county is not authorized to pay rent to a surveyor for his use of instruments belonging to him personally. Op. Atty. Gen., Jan. 9, 1932.

A license is not a contract and an alderman of a city may receive a license to sell intoxicating liquors, except that he cannot vote on his own application. Op. Atty. Gen. (218g), Feb. 15, 1935.

**4. Term of office.**

The term of office of a city employe, appointed by city council without term, does not expire at expiration of term for which members of council appointing him were elected, unless employe was appointed for a fixed term. State v. City of Eveleth, 189M229, 249NW184. See Dun. Dig. 7988.

Payments to retirement fund by regular state employes shall be based upon their regular salary schedule without considering emergency reduction in salaries. Op. Atty. Gen., May 11, 1933.

**5. Vacations.**

There is no statutory provision authorizing vacation pay for state employes, and no authorization for making such payment to a deceased person's estate or to his widow. Op. Atty. Gen. (359a-1), July 26, 1939.

**CHAPTER 6  
Elections**

This chapter in the 1927 Statutes and the 1936 Supplement is repealed effective Aug. 1, 1939, by Act Apr. 21, 1939, c. 345, Pt. 12, §1, post §601-12. In as much as the repealing Act mentions only chapter 6 of the 1927 Statutes and the 1936 Supplement, there may be a question from a technical point of view as to whether new acts and amendments of existing acts appearing in the 1938 Supplement are also repealed.

The chapter is reenacted and appears in chapter 6A as shown in the table below.

Repealed Section	Reenacted as
255.....	601-5(1), 601-6(1), 601-6(1)a.
255-1.....	601-6(1)c.
255-2.....	601-6(1)c.
256.....	601-1(1)d, f, i, ii, j, jj, k, l, m, n, o, q, r, rr, s.
257.....	601-1(2).
258.....	601-6(4).
259.....	601-6(4)b.
260.....	601-6(3).
261.....	601-6(5)m, 601-6(5)o.
270-1.....	601-6(2)a.
270-2.....	601-6(2)b.
270-3.....	601-6(2)c.
270-4.....	601-6(2)d.
270-5.....	601-6(2)e.
270-6.....	601-6(2)f.
270-7.....	601-6(2)g.
270-8.....	601-6(2)h.
270-9.....	601-6(2)i.
270-10.....	601-6(2)j.
270-11.....	601-6(2)k.
270-12.....	601-6(2)l.
271.....	601-6(5)n.
272.....	601-6(5)n.
274.....	601-6(6)j.
275.....	601-6(7).
276.....	601-6(7)a.
277.....	601-6(7)b.
278.....	601-6(7)c.
279.....	601-6(7)d.
280.....	601-6(7)e.
281.....	601-6(5)o.
282.....	601-6(7)f.

Repealed Section	Reenacted as
283.....	601-6(7)g.
284.....	601-6(7)h.
284a.....	601-6(7)i.
285.....	601-6(7)j.
286.....	601-6(7)k.
287.....	601-5(1)b.
288.....	601-6(7)l.
290.....	601-6(7)m.
291.....	601-6(7)n.
292.....	601-6(7)o.
293.....	601-3(1), 601-6(3)a.
294.....	601-1(1)ee, 601-3(1)a.
295.....	601-1(2)c.
297.....	601-3(1)b.
298.....	601-3(1)c.
299.....	601-3(1)d.
300.....	601-3(1)e, 601-6(7)q.
301.....	601-6(7)p.
302.....	601-2(3)c.
305.....	601-6(8).
306.....	601-6(8)m.
307.....	601-6(8)n.
308.....	601-6(8)p.
310.....	601-6(9)d, 601-6(10).
311.....	601-6(9)c.
312.....	601-6(11).
313.....	601-6(11).
314.....	601-6(11)b.
315.....	601-3(1)f.
316.....	601-3(1)g.
317.....	601-3(1)h.
318.....	601-3(2).
319.....	601-3(2)a.